

Curriculum for New State DOT Transit Grant Managers in Administering Federal and State Transit Grants

DETAILS

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AUTHOR ACKNOWLEDGEMENTS

This curriculum was developed under NCHRP Project 20-65 (44), by the KFH Group, Incorporated under subcontract to Cambridge Systematics, Inc. Sue F. Knapp, KFH Group President, was the Principal Investigator. The other authors of this curriculum are Beth Hamby, Senior Transportation Planner, and Holly Chase, Transportation Planner, both on staff at KFH Group.

ABSTRACT

This curriculum was developed under NCHRP Project 20-65 (44), “Curriculum for New State DOT Transit Grant Managers in Administering Federal and State Transit Grants.”

The public transit divisions within the state departments of transportation (DOTs) manage a variety of federal and state transit programs. The purpose of this curriculum is to provide state transit directors with a comprehensive resource with which to train new individuals on their staff in Federal Transit Administration (FTA) Section 5307, 5310, 5311, and 5339 program management and subrecipient oversight.

This curriculum is designed to be used by experienced state DOT transit program personnel who train new staff, as well as in a self-study approach. It is organized into a series of modules and submodules covering all FTA State Management Review and Triennial Review topic areas, as well as supplemental information.

Modules include: Introduction to FTA Grants; Legal Authority and Annual Certifications (including Lobbying); Grant Administration; Financial Management; Project Management and Grantee Oversight; Procurement (including Disadvantaged Business Enterprise and Buy America); Planning; Asset Management; Safety and Security; Subrecipient Personnel-Related Issues (including Equal Employment Opportunity, Labor Protection, and Drug and Alcohol programs); Subrecipient Service Requirements & Restrictions (including Americans with Disabilities Act, Title VI, Half-Fare, Charter Bus, and School Bus); and Training and Technical Assistance.

Modules are presented in three levels. Level 1 provides summary information appropriate for *all* state transit staff members. Level 2 provides a foundation course with the degree of detail that *many* state transit staff members will need. Level 3 provides recommendations for in-depth training for those staff needing special expertise.

An additional module provides state transit directors with tools for identifying the non-FTA-specific core skills needed for future recruitments, approaches to recruiting for these skills, and suggestions for training and resources that their staff can use to build these skills.

Introduction and How to Use this Curriculum



INTRODUCTION

The public transit divisions within the state departments of transportation (DOTs) manage a variety of federal and state transit programs. The functions needed to administer transit programs at the state level are complex, not well understood outside the state transit arena, and create many challenges for state transit directors, challenges that have increased in recent years. The purpose of this curriculum is to provide state transit directors with a comprehensive resource with which to train new individuals on their staff in Federal Transit Administration (FTA) program management and subrecipient oversight.

This curriculum is designed to be used by experienced state DOT transit program personnel who train new staff members, as well as by new staff in a self-study approach. The curriculum covers the FTA requirements for states that administer of the following FTA programs authorized under Moving Ahead for Progress in the 21st Century (MAP-21):

- Section 5307 - Small Urbanized Area Formula Grants
- Section 5310 - Enhanced Mobility of Seniors and Individuals with Disabilities
- Section 5311 - Rural Area Formula Grants
- Section 5339 - Bus and Bus Facilities Program

A note about information currency: the curriculum covers the FTA requirements for grantees and subrecipients that were in place at the time the final draft of the curriculum was prepared (November 2013). Because detailed or finalized FTA guidance was not yet available on some programs and requirements established under MAP-21, guidance on these items is necessarily limited in this edition and is noted as such. State transit program staff are advised to refer to current FTA circulars and other guidance, since requirements tend to change with each new authorizing legislation and may also change at interim times.

Introduction and How to Use this Curriculum



ORGANIZATION OF THE CURRICULUM

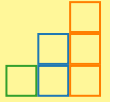
As grouped in the FY2013 SMR workbook, there are 14 knowledge areas in which FTA evaluates state program compliance. Many, but not all, of the SMR knowledge areas align with the 18 knowledge areas in the FY2013 Triennial Review workbook for S. 5307 recipients (and for which states are responsible for oversight of S. 5307 subrecipients). Rather than paralleling the SMR or Triennial Review structures, this curriculum incorporates the FTA knowledge areas in a functional organization, grouping functionally similar areas together when logical.

Modules

This curriculum is organized into a series of modules and submodules covering all FTA SMR and Triennial Review topic areas, as well as supplemental information that state transit staff should be familiar with. The modules include:

1. **Introduction to FTA Grants** - describes each program and provides a brief introduction to overarching program requirements that are addressed in more depth in later modules. This module should be completed before proceeding to other modules.
2. **Legal Authority and Annual Certifications** - addresses subrecipient legal authority, certifications and assurances, suspension/debarment, and lobbying restrictions.
3. **Grant Administration** - divided into two submodules: FTA Grant Administration (addresses state-to-FTA requirements) and Subrecipient Grant Administration.
4. **Financial Management** - divided into two submodules: FTA Administration (addresses state-to-FTA requirements) and Subrecipient Financial Management.

Introduction and How to Use this Curriculum



5. ***Project Management and Grantee Oversight*** - covers FTA compliance reviews of states, state reviews of subrecipient compliance, and project management of facility construction or rehabilitation projects.
6. ***Procurement*** - divided into four submodules: Introduction; Policies, Process, and History; Disadvantaged Business Enterprise (DBE); and Buy American and Vehicle Requirements.
7. ***Planning*** - divided into three submodules: State and Metropolitan Planning; Local Planning; and Public Participation.
8. ***Asset Management*** - covers real property, equipment, maintenance, and transit asset management planning and reporting requirements established by MAP-21.
9. ***Safety and Security*** - addresses public transit agency safety plans, state safety oversight, public transportation safety certification training program, and more.
10. ***Subrecipient Personnel-Related Issues*** - divided into three submodules: Equal Employment Opportunity (EEO); Labor Protection/Special Warranty; and Drug and Alcohol Testing and Drug-Free Workplace Act Programs.
11. ***Subrecipient Service Requirements & Restrictions*** - divided into six submodules: Americans with Disabilities Act (ADA); Title VI; Half-Fare; Ensuring FTA-Funded Services are Open to the Public; Charter Bus; and School Bus.
12. ***Training and Technical Assistance*** - addresses FTA-required training for subrecipients, building technical capacity of subrecipients, and the Rural Transit Assistance Program (RTAP).

Introduction and How to Use this Curriculum



Levels

In general, for each module, there are three levels of detail:

- **Level 1** provides summary information that all state transit staff members should be familiar with. Level 1 is intended to be completed first, for all modules in sequence, to provide a brief, initial orientation to all knowledge areas before progressing to Level 2. Level 1 is formatted with green.
- **Level 2** provides a foundation course with the degree of detail that many state transit staff members will need. Level 2 is intended to be experienced after a new employee has completed Level 1 in all areas, and the first module of Level 2 should be completed before other modules. At this level, learners are welcome to complete other modules out of sequence to best meet their individual needs. Level 2 is formatted with blue.
- **Level 3** provides intensive training for those state transit staff members who need to develop a special expertise in an FTA requirement area with particular complexity. Whether or not an individual needs Level 3 training will depend upon their position's specific responsibilities. For most modules, Level 3 training needs will be met by another training course to which this curriculum will merely refer, rather than attempt to reinvent a very complex wheel. Level 3 is formatted with orange.

Note that not all knowledge areas have three module levels. For knowledge areas that typically do not require special expertise among state transit program staff (e.g., School Bus), Level 3 modules are not included. For the Training and Technical Assistance module, a Level 1 and Level 3 are presented, while Level 2 is not. Also, for some knowledge areas, concepts combined in a single Level 1 module (e.g., Procurement) are broken into multiple Level 2 submodules because of the extensive amount of information covered. A reference table indicating all the modules and levels in the curriculum can be found at the end of this introduction.

Introduction and How to Use this Curriculum



ELEMENTS WITHIN EACH MODULE

Each **Level 1** module contains:

1. A brief overview of the FTA requirements pertaining to this knowledge area
2. A list of key concepts addressed in the module
3. Definitions of essential terminology introduced in the module
4. Reasons why state transit staff need to be familiar with the knowledge area
5. An introduction to what will be covered in more detail in Level 2

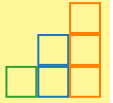
Each **Level 2** module contains:

- Level 1 items 1-4, with definitions of additional terminology when appropriate
- Detailed information on FTA requirements pertaining to this knowledge area - with a level of detail corresponding to FTA circulars
- Supplemental notes when appropriate
- Tips on how this module relates to other modules
- A brief quiz to confirm understanding of key concepts and requirements; an answer key is included as a separate module
- Links and contact information for additional resources and reference materials

Each **Level 3** module contains:

- Referral to the appropriate intensive course(s) (if they exist) developed and conducted by FTA, NTI, TSI, or other federally-funded program. Because these courses are often 3 or more days in classroom training with an expert in the knowledge area, and may require a registration fee, the curriculum will not incorporate these courses except by way of reference and links to the course registration.

Introduction and How to Use this Curriculum



HOW TO USE THE CURRICULUM

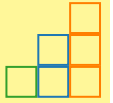
It is recommended that states use this curriculum as a supplement to their own State Management Plans, standard operating procedures, written policies, subrecipient guidance, and any internal staff training already conducted, as well as training that may be available to state program staff from your FTA Regional Office.

Level 1 is designed to be able to be used in self-study. However, the curriculum can also be used to conduct individualized training by a mentor, or even classroom training, should a state have several new staff members or wish to collaborate with other states.

It is anticipated that **Level 2** training will be provided by mentors in some states and through self-study in other states. Classroom training could also be conducted through a conference session for a single knowledge areas or clustering of several Level 2 courses into a full day of classroom training. Where courses exist for training at this level, they will be referenced and, if feasible, incorporated into the curriculum if available and appropriate. The level of detail in this training is comparable to the guidance found in FTA circulars.

Level 3 provides no new content; instead, references are made to existing courses in the industry designed to provide more intensive training on specialized areas of expertise. This curriculum is not intended to duplicate some very successful and effective training courses or materials that currently are available within and outside the transit industry. As part of the research leading to the development of this curriculum, the research team compiled and assessed existing courses on the topics covered in the modules (Appendix A).

Introduction and How to Use this Curriculum



LINKS WITHIN THE DOCUMENT TO ELEMENTS OF THE CURRICULUM

Each of the following links moves the learner to an element within the document.

Table of Contents

First, below is a link to the table of contents for use with a printed curriculum.

[Table of Contents](#)

Introductory Materials

Next are introductory materials for before the FTA knowledge areas are presented.

[Introduction and How to Use this Curriculum](#)—provides information, without the links, in a printer-friendly format.

[Hiring for Core Skills](#)—This is not actually part of the training curriculum. Rather, it provides guidance to help state DOT transit managers hire new program staff.

[Answer Key for Level II Quiz Questions](#)—The answers to all of the Level II quizzes can be found in this section.

The Modules

FTA knowledge area modules can be downloaded as stand-alone modules as well as compiled by level or knowledge area.

Compiled by Level of Detail

[Level I](#)—New state DOT transit staff may want to begin by reviewing this entire file before proceeding on to any Level II modules.

[Level II](#)

[Level III](#)

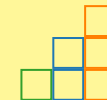
Introduction and How to Use this Curriculum



Individual Modules by Knowledge Area and Level of Detail

Knowledge Area	Sub-Area	Level I	Level II	Level III
Introduction to FTA Grants		Level I	Level II	--
Legal Authority and Annual Certifications		Level I	Level II	--
Grant Administration	FTA Grant Administration	Level I	Level II	Level III
	Subrecipient Grant Administration	Level I	Level II	
Financial Management	FTA Financial Management	Level I	Level II	Level III
	Subrecipient Financial Management	Level I	Level II	
Project Management and Grantee Oversight		Level I	Level II	Level III
Procurement	Introduction to Procurement	Level I	Level II	Level III
	Procurement Policies, Process, and History		Level II	
	Disadvantaged Business Enterprise (DBE)		Level II	
	Buy America and Vehicle Requirements		Level II	
Planning	State and Metropolitan Planning	Level I	Level II	Level III
	Local Planning	Level I	Level II	Level III
	Public Participation	Level I	Level II	Level III
Asset Management		Level I	Level II	Level III
Safety and Security		Level I	Level II	Level III

Introduction and How to Use this Curriculum

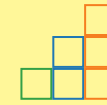


Subrecipient Personnel Issues	Equal Employment Opportunity (EEO)	Level I	Level II	Level III
	Labor Protection/Special Warranty	Level I	Level II	--
	Drug and Alcohol Testing and Drug-Free Workplace Act Programs	Level I	Level II	Level III
Subrecipient Service Requirements and Restrictions	Americans with Disabilities Act (ADA)	Level I	Level II	Level III
	Title VI	Level I	Level II	Level III
	Half-Fare	Level I	Level II	--
	Ensuring the Services Are Open to the Public		Level II	--
	Charter Bus		Level II	--
School Bus	Level II		--	
Training and Technical Assistance		Level I	--	Level III

Appendix

Finally, an appendix is provided containing the inventory of existing courses and other resources that were available when this curriculum was being developed.

Hiring for Core Skills



INTRODUCTION

This section of the curriculum indicates what core skills are likely to be needed when hiring new state staff to manage or coordinate FTA grant programs. This will vary from state to state and position to position, because states organize their transit grant programs in a variety of ways. Nonetheless, there are certain core skills which state transit directors should seek in the recruitment process for most positions, and emphasize in the job description.

These core skills are distinctly different from the knowledge areas discussed in the rest of this curriculum. While you can *train* staff in specific *knowledge* areas needed to manage FTA grant programs, you will be *hiring* staff that already possess these core *skills* required.

	HIRING	TRAINING
CORE SKILLS	HIRE FOR CORE SKILLS	
KNOWLEDGE AREAS		TRAIN FOR KNOWLEDGE AREAS

HOW TO USE THIS SECTION

State transit managers shouldn't assume that every staff person will have all of the core skills listed below. Our research indicates that there are certain core skills that all, or almost all, of your staff need, regardless of their job title or function. Then there are skills that you may need from only few staff or staff with specialized jobs. The challenge is to cover the essential skill areas for all hires and then, for specialized jobs, match the skills needed to function in that position.

Another aspect of this is to ensure that you have covered all skills in one job or another. The attached checklist allows you to determine whether there are gaps – does your staff cover all these essential skills?



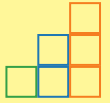
Hiring for Core Skills

CHECKLIST OF SKILL SETS - STATE TRANSIT MANAGEMENT

Skills Needed for a MAJORITY of Positions	Staff Skills (Y/N) and Position (s)	Other Commonly Needed Skills	Staff Skills (Y/N) and Position (s)	Skills Needed for Specialized Positions	Staff Skills (Y/N) and Position (s)
FINANCIAL/GRANTS MANAGEMENT SKILLS					
<ul style="list-style-type: none"> Budget development and monitoring 	Y <input type="checkbox"/> N <input type="checkbox"/>	<ul style="list-style-type: none"> Financial accounting Understanding audits 	Y <input type="checkbox"/> N <input type="checkbox"/>		
<ul style="list-style-type: none"> Understanding grant applicant budgets 	Y <input type="checkbox"/> N <input type="checkbox"/>		Y <input type="checkbox"/> N <input type="checkbox"/>		
<ul style="list-style-type: none"> Understanding invoices/ reimbursement requests 	Y <input type="checkbox"/> N <input type="checkbox"/>				
PROJECT MANAGEMENT SKILLS					
<ul style="list-style-type: none"> Project planning - objectives, tasks, milestones, deliverables, schedule, budget 	Y <input type="checkbox"/> N <input type="checkbox"/>	<ul style="list-style-type: none"> Delegating to / prioritizing work for others Equipment useful life tracking 	Y <input type="checkbox"/> N <input type="checkbox"/>	<ul style="list-style-type: none"> Capital construction project management Event planning / meeting logistics 	Y <input type="checkbox"/> N <input type="checkbox"/>
<ul style="list-style-type: none"> Project monitoring / tracking / reporting 	Y <input type="checkbox"/> N <input type="checkbox"/>		Y <input type="checkbox"/> N <input type="checkbox"/>		Y <input type="checkbox"/> N <input type="checkbox"/>
<ul style="list-style-type: none"> Basic time management 	Y <input type="checkbox"/> N <input type="checkbox"/>				
ANALYTICAL SKILLS					
<ul style="list-style-type: none"> Understanding performance measures 	Y <input type="checkbox"/> N <input type="checkbox"/>	<ul style="list-style-type: none"> Quantitative analysis 	Y <input type="checkbox"/> N <input type="checkbox"/>	<ul style="list-style-type: none"> Demographic analysis Alternatives analysis Survey design 	Y <input type="checkbox"/> N <input type="checkbox"/>
					Y <input type="checkbox"/> N <input type="checkbox"/>
					Y <input type="checkbox"/> N <input type="checkbox"/>
WRITING SKILLS					
<ul style="list-style-type: none"> Preparing executive summaries 	Y <input type="checkbox"/> N <input type="checkbox"/>	<ul style="list-style-type: none"> Technical writing Preparing lengthy written reports Newsletter writing/editing Web content development 	Y <input type="checkbox"/> N <input type="checkbox"/>		
<ul style="list-style-type: none"> Preparing project descriptions 	Y <input type="checkbox"/> N <input type="checkbox"/>		Y <input type="checkbox"/> N <input type="checkbox"/>		
<ul style="list-style-type: none"> Business correspondence 	Y <input type="checkbox"/> N <input type="checkbox"/>		Y <input type="checkbox"/> N <input type="checkbox"/>		
			Y <input type="checkbox"/> N <input type="checkbox"/>		

(CONTINUED)

Hiring for Core Skills



CHECKLIST OF SKILL SETS - STATE TRANSIT MANAGEMENT (CONTINUED)

Skills Needed for a MAJORITY of Positions	Staff Skills (Y/N) and Position (s)	Other Commonly Needed Skills	Staff Skills (Y/N) and Position (s)	Skills Needed for Specialized Positions	Staff Skills (Y/N) and Position (s)
TECHNOLOGY SKILLS					
• Basic Office Software	Y <input type="checkbox"/> N <input type="checkbox"/>			• Graphic design	Y <input type="checkbox"/> N <input type="checkbox"/>
				• Database design and management	Y <input type="checkbox"/> N <input type="checkbox"/>
				• Geographic Information Systems (GIS)	Y <input type="checkbox"/> N <input type="checkbox"/>
				• Information technology	Y <input type="checkbox"/> N <input type="checkbox"/>
				• Website content management	Y <input type="checkbox"/> N <input type="checkbox"/>
COMMUNICATIONS SKILLS					
• Presentations to groups	Y <input type="checkbox"/> N <input type="checkbox"/>	• Supervisory skills	Y <input type="checkbox"/> N <input type="checkbox"/>		
• Subrecipient relations	Y <input type="checkbox"/> N <input type="checkbox"/>	• Training skills	Y <input type="checkbox"/> N <input type="checkbox"/>		
• Working with advisory groups	Y <input type="checkbox"/> N <input type="checkbox"/>	• Coordinating interdepartmental groups	Y <input type="checkbox"/> N <input type="checkbox"/>		
• Written communications (addressed previously)	Y <input type="checkbox"/> N <input type="checkbox"/>	• Public relations	Y <input type="checkbox"/> N <input type="checkbox"/>		
• "Plain Talk"	Y <input type="checkbox"/> N <input type="checkbox"/>				

* Although not included as part of the skills surveyed, one of the state transit directors interviewed indicated that an important skill needed is "the ability to translate bureaucratic language into 'plain talk'"

Hiring for Core Skills



A VARIETY OF STATE TRANSIT PROGRAM STAFF POSITIONS

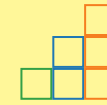
Some states assign staff to specific geographic areas in which they manage all FTA grants. Other states distribute job responsibilities by grant program and/or functional areas (examples include financial management, grant-funded vehicle fleet oversight, procurement, training, coordinated transportation planning, and compliance oversight), with individuals responsible for a specific grant program or functional area covering the entire state. States may also take a hybrid approach. The geographic size of the state, the number of subrecipients, whether or not there are state program funds in the mix, and the number of staff positions in the transit program are variables.

The state transit directors that replied to the survey conducted as part of the research for this study reported recently hiring for positions with the following titles:

<i>Associate Transportation Planner</i>	<i>Intermediate Accountant</i>	<i>Senior Multimodal Operations Specialist</i>
<i>Community Grants Coordinator</i>	<i>Multimodal Operations Specialist</i>	<i>Training, Safety & Outreach Manager</i>
<i>Compliance Officer</i>	<i>Program Manager</i>	<i>Training, Safety & Security Program Manager</i>
<i>Financial Administrator</i>	<i>Project Manager</i>	<i>Transit Coordinator</i>
<i>Fiscal Analyst</i>	<i>Regional Planning Manager</i>	<i>Transit Management Officer II</i>
<i>Fiscal Transit Planner</i>	<i>Regional Transit Planner</i>	<i>Transportation Planner</i>
<i>Grant Coordinator</i>	<i>Rideshare Program Manager</i>	<i>Transportation Planner/Analyst Trainee</i>
<i>Grants and Financial Analyst</i>	<i>RTAP Training Program Manager</i>	<i>Transportation Specialist I</i>
<i>Grants Manager</i>	<i>Rural Program Manager</i>	<i>Urban Special Needs Planner</i>
<i>Grants Officer</i>	<i>Rural Transit Programs Supervisor</i>	
<i>Human Services Transit Planner</i>	<i>Section 5307/Intercity Bus Coordinator</i>	

While this list is not a comprehensive list of all possible positions with state transit programs, it provides some indication of the variety of roles and job responsibilities staff may have within state transit programs.

Hiring for Core Skills



CORE SKILLS

While the exact skill set of your new employee will vary depending on the specific job requirements and the organization of functions within your state's program, the following are core skills that are commonly needed for positions that manage FTA grants.

As one state transit director indicated in an interview, the ideal candidate for managing FTA grants at the state level will “hit the middle of all four corners of a personality test.” Being well-rounded is critical as financial management, compliance oversight, and planning are very different skill sets and interests.

The core skills are grouped into the following broad categories:

- Financial/Grants Management Skills
- Project Management Skills
- Analytical Skills
- Writing Skills
- Technology Skills
- Communications Skills

Then, within each category, more specific skill sets are organized according to how frequently state transit staff need to have the particular skill, based on responses to the state DOT director survey conducted as part of the research prior of the development of this curriculum:

- Skills Needed for a MAJORITY of Positions (most or all)
- Other Commonly Needed Skills (many positions)
- Skills Needed for a Small Number of Positions (i.e., by a specialist)

Hiring for Core Skills



Then, for each skill (or group of skills if they are very similar/interrelated), the following are indicated:

- Recommended education, experience, and aptitude to include as part of preferred minimum qualifications
- Recommended strategies for verifying this skill as part of application or interview process
- Potential sources of training for staff lacking these skills

It should be noted that, within the potential sources of training for staff lacking these skills, a number of private for-profit training courses and commercially-published “how-to” books are included. This is by no means an endorsement for these resources, or an exhaustive list, but is intended to demonstrate that these skills can be obtained from a wide variety of sources. The commercially-published “how-to” books were selected based on basic online research and reading reviews posted by readers and professional publication critics.

Hiring for Core Skills



FINANCIAL/GRANTS MANAGEMENT SKILLS

Skills Needed for a MAJORITY of Positions:

- Budget development and monitoring
- Understanding grant applicant budgets
- Understanding invoices / reimbursement requests

Other Commonly Needed Skills:

- Financial accounting
- Understanding audits

Skills Needed for a Small Number of Positions:

(none identified through the survey of states)

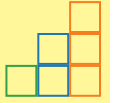
Hiring for Core Skills



FINANCIAL/GRANTS MANAGEMENT SKILLS

Skills Needed for a MAJORITY of Positions:	<ul style="list-style-type: none"> • Budget development and monitoring • Understanding grant applicant budgets • Understanding invoices / reimbursement requests
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience in accounting, finance, program/project budget development, budget monitoring, invoicing, and/or bookkeeping • Coursework in basic accounting, mathematics, and/or finance • Aptitude with Microsoft Excel or other spreadsheet software
As part of application or interview process:	<ul style="list-style-type: none"> • Request examples of program or project budgets developed by the candidate • Require completion of a hands-on budget exercise
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses • MTAP course: Fundamental Financial Management Training for Rural and Small Urban Public Transit Providers • Software-specific training • How-to books on basic accounting and bookkeeping concepts • How-to books on public and non-profit financial management. Examples include: <ul style="list-style-type: none"> o <i>A Budgeting Guide for Local Government (Municipal Management Series)</i> by Robert L. Bland o <i>Budgeting and Financial Management for Nonprofit Organizations</i> by Lynne A Weikart and Greg G. Chen o <i>Financial Management in the Public Sector: Tools, Applications, and Cases</i> by Xiaohu Wang o <i>Governmental and Nonprofit Financial Management</i> by Charles K. Coe, PhD o <i>Nonprofit Financial Management: A Practical Guide</i> by Charles K. Coe o <i>The Budget-Building Book for Nonprofits: A Step-by-Step Guide for Managers and Boards</i> by Murray Dropkin, Jim Halpin, and Bill La Touche o <i>Comprehensive Financial Management Guidelines for Rural and Small Urban Public Transportation Providers</i> prepared for MTAP by J.E. Burkhardt, B. Hamby, L.C. MacDorman, B.E. McCollom, and G.A. Scheur o <i>Fundamental Financial Management for Rural and Small Urban Public Transit Providers</i>, prepared for MTAP/ National RTAP by Richard Garrity

Hiring for Core Skills



FINANCIAL/GRANTS MANAGEMENT SKILLS

Other Commonly Needed Skills:	<ul style="list-style-type: none"> • Financial accounting • Understanding audits
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience in accounting • Coursework in accounting • Aptitude with accounting software
As part of application or interview process:	<ul style="list-style-type: none"> • Include staff with accounting expertise on the interview panel to evaluate candidate's responses to questions on experience in this area
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses • Software-specific training

Hiring for Core Skills



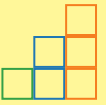
PROJECT MANAGEMENT SKILLS	
Skills Needed for a MAJORITY of Positions:	<ul style="list-style-type: none">• Project planning - objectives, tasks, milestones, deliverables, schedule, budget• Project monitoring / tracking / reporting• Basic time management
Other Commonly Needed Skills:	<ul style="list-style-type: none">• Delegating to / prioritizing work for others• Equipment useful life tracking
Skills Needed for a Small Number of Positions:	<ul style="list-style-type: none">• Capital construction project management• Event planning / meeting logistics

Hiring for Core Skills



PROJECT MANAGEMENT SKILLS	
Skills Needed for a MAJORITY of Positions:	<ul style="list-style-type: none"> • Project planning - objectives, tasks, milestones, deliverables, schedule, budget • Project monitoring / tracking / reporting • Basic time management
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience in managing projects, preparing management reports • Coursework in project management, business management
As part of application or interview process:	<ul style="list-style-type: none"> • Request written examples of project plans and progress reports developed by the candidate • Request examples of substantial projects successfully managed from start to finish • Require completion of a simple scope of work and schedule
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses. Examples include: <ul style="list-style-type: none"> ◦ Through the Continuing Education and Economic Development program, the College of Baltimore County offers Leadership and Management Training including Introduction to Project Management • How-to books on basic project management. Examples include: <ul style="list-style-type: none"> ◦ <i>Project Management For Dummies</i> by Stanley E. Portny ◦ <i>Absolute Beginner's Guide to Project Management</i> by Greg Horine • Basic project management training offered by private companies. Examples include: <ul style="list-style-type: none"> ◦ FranklinCovey's Introduction to Project Management Webinar and Project Management Essentials Workshop ◦ Fred Pryor Seminars and CareerTrack's Project Management Workshop ◦ SkillPath's Fundamentals of Successful Project Management

PROJECT MANAGEMENT SKILLS	
Other Commonly Needed Skill:	<ul style="list-style-type: none"> • Delegating to / prioritizing work for others
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Supervisory experience • Project management experience
As part of application or interview process:	<ul style="list-style-type: none"> • Ask for more details on candidate's supervisory experience, how to determine what to delegate, challenges experienced
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses. See "Supervisory Skills" discussed under "Communication Skill" below for examples



Hiring for Core Skills

PROJECT MANAGEMENT SKILLS	
Other Commonly Needed Skill:	<ul style="list-style-type: none"> • Equipment useful life tracking
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience in conducting inventories, preparing capital replacement plans, preparing reserves studies, and physical asset management, fleet management • Project management experience • Mathematical aptitude
As part of application or interview process:	<ul style="list-style-type: none"> • Require completion of a hands-on exercise to calculate remaining years of service based on useful life standards and average annual usage
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Step through examples of capital replacement plans prepared for subrecipients and state-owned transit equipment and facilities

PROJECT MANAGEMENT SKILLS	
Skill Needed for a Small Number of Positions:	<ul style="list-style-type: none"> • Capital construction project management
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Education, experience, and certification in capital project management, civil engineering, construction engineering, construction management, architectural engineering

PROJECT MANAGEMENT SKILLS	
Skill Needed for a Small Number of Positions:	<ul style="list-style-type: none"> • Event planning / meeting logistics
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience in event planning and management, meeting logistics planning, marketing planning • Excellent organizational skills, detail-oriented, ability to multi-task, excellent interpersonal skills

Hiring for Core Skills



ANALYTICAL SKILLS	
Skills Needed for a MAJORITY of Positions:	<ul style="list-style-type: none">• Understanding performance measures
Other Commonly Needed Skills:	<ul style="list-style-type: none">• Quantitative analysis
Skills Needed for a Small Number of Positions:	<ul style="list-style-type: none">• Demographic analysis• Alternatives analysis• Survey design

Hiring for Core Skills



ANALYTICAL SKILLS

Skills Needed for a MAJORITY of Positions:	<ul style="list-style-type: none"> • Understanding performance measures
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience in quantitative performance measurement, performance indicators, quantitative analysis, data interpretation, business management • Coursework in performance measurement, data analysis • Aptitude with basic math, analytical thinking • Aptitude with Microsoft Excel or other spreadsheet software
As part of application or interview process:	<ul style="list-style-type: none"> • Ask in the interview for examples of data that are useful in measuring the efficiency and effectiveness of a transportation service. If the candidate does not have a transit background, allow time to think - perhaps as a written exercise.
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Provide examples of performance measurements (current and past) of an actual subrecipient and discuss how they have changed over time, what changes were made to the management or operations that impacted the measures • Guidebooks developed specifically for transit: <ul style="list-style-type: none"> ○ TCRP Report 54: <i>Management Toolkit for Rural and Small Urban Transportation Systems</i> by KFH Group, Incorporated et al. ○ TCRP Report 88: <i>A Guidebook for Developing a Transit Performance-Measurement System</i> by Kittleson & Associates, Inc., et al. ○ <i>Comprehensive Financial Management Guidelines for Rural and Small Urban Public Transportation Providers</i> prepared for MTAP by Jon E. Burkhardt, et al. (Chapter 11)

Hiring for Core Skills



ANALYTICAL SKILLS

Other Commonly Needed Skill:	<ul style="list-style-type: none"> • Quantitative analysis
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience in quantitative analysis, data interpretation, finance • Coursework in mathematics, statistics, data analysis, finance • Aptitude with math, analytical thinking • Aptitude with Microsoft Excel or other spreadsheet software • Aptitude with IBM SPSS or other statistical analysis software
As part of application or interview process:	<ul style="list-style-type: none"> • Include staff with quantitative analysis expertise on the interview panel to evaluate candidate's responses to questions on experience in this area
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses

ANALYTICAL SKILLS

Skill Needed for a Small Number of Positions:	<ul style="list-style-type: none"> • Demographic analysis
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Education and experience in numerical analysis, demographics, statistics, Geographic Information Systems (GIS), geography, cartography, market research • Aptitude with ArcView/ArcGIS
As part of application or interview process:	<ul style="list-style-type: none"> • Include staff with expertise in GIS on the interview panel to evaluate candidate's responses to questions on experience in this area
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses • ESRI training courses

Hiring for Core Skills



ANALYTICAL SKILLS	
Skill Needed for a Small Number of Positions:	<ul style="list-style-type: none"> • Alternatives analysis (<i>as a general skill, not the specific FTA NEPA requirement</i>)
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Education and experience in strategic planning, long-term planning, alternatives analysis, risk management • Aptitude for analysis, problem-solving, research, logical thinking, critical thinking
As part of application or interview process:	<ul style="list-style-type: none"> • Ask for an example of a complex decision in which the candidate participated in the development and analysis of alternative choices • Require completion of a hands-on exercise to discuss the relative advantages and disadvantages of several alternative approaches to a decision, within a context of stated overarching goals and objectives, and examples of available data
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses in planning, business management, critical thinking
ANALYTICAL SKILLS	
Skill Needed for a Small Number of Positions:	<ul style="list-style-type: none"> • Survey design
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Education and experience with market research, quality assurance, strategic planning, public involvement techniques, survey methodology, survey design and analysis, statistics • Aptitude for market research, logical thinking, written English • Aptitude with web-based survey applications, Microsoft Access, Microsoft Excel or other spreadsheet, SPSS
As part of application or interview process:	<ul style="list-style-type: none"> • Request examples of actual surveys designed by the applicant and an analysis of survey responses conducted by the application
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses in market research • Training in web-based survey technology (e.g., online tutorials)

Hiring for Core Skills



WRITING SKILLS	
Skills Needed for a MAJORITY of Positions:	<ul style="list-style-type: none">• Preparing executive summaries• Preparing project descriptions• Business correspondence
Other Commonly Needed Skills:	<ul style="list-style-type: none">• Technical writing• Preparing lengthy written reports• Newsletter writing/editing• Web content development
Skills Needed for a Small Number of Positions:	(none identified through the survey of states)

Hiring for Core Skills



WRITING SKILLS

Skills Needed for a MAJORITY of Positions:	<ul style="list-style-type: none"> • Preparing executive summaries • Preparing project descriptions • Business correspondence
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience preparing various business communications • Coursework in English, business writing, technical writing, journalism • Aptitude with written English • Aptitude with Microsoft Word or other word processing software
As part of application or interview process:	<ul style="list-style-type: none"> • Evaluate the writing in the cover letter and resume for grammar, spelling, and adequate editing • Request writing samples • Provide a brief technical report that the candidate must read and summarize (before, during, or after the interview)
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses • Many colleges and universities have writing centers open to students; staff members who may be enrolled in a course to build any core skill could take advantage of these writing centers. • Basic business writing courses are offered by many private companies and continuing education programs. Examples include: <ul style="list-style-type: none"> o The Business Writing Center (businesswriting.com) offers three basic online self-study courses in basic business writing, email, and grammar o FranklinCovey's Business Writing Course and Workshop o Skillpath's Business Writing Basics for Professionals • Internal mentoring - require review of new hire communications by a peer or a supervisor with good writing/editing skills, who provides constructive feedback during the probationary period • Develop a collection of templates and best practices of good writing that staff can use as examples

Hiring for Core Skills



WRITING SKILLS

Other Commonly Needed Skills:	<ul style="list-style-type: none"> • Technical writing • Preparing lengthy written reports
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience in planning, technical writing • Coursework in planning, other social sciences, advanced undergraduate-level English or research
As part of application or interview process:	<ul style="list-style-type: none"> • Require writing samples
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses

WRITING SKILLS

Other Commonly Needed Skill:	<ul style="list-style-type: none"> • Newsletter writing/editing
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience in copywriting, journalism, public relations, publication editing, marketing, other business communications • Coursework in journalism, public relations
As part of application or interview process:	<ul style="list-style-type: none"> • Require writing samples • Require completion of a hands-on exercise to read a list of facts/story elements and write an 300-word article
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses

WRITING SKILLS

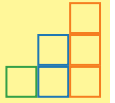
Other Commonly Needed Skill:	<ul style="list-style-type: none"> • Web content development (writing and information organization - preparing the information for staff who will do the technical end of web management)
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience in web content management, web design, copywriting, public relations, publication editing, marketing, outreach, education, educational blogging • Coursework in public relations, marketing, writing for the web
As part of application or interview process:	<ul style="list-style-type: none"> • Require writing samples • Request examples of web pages or sites developed or maintained by the candidate
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses

Hiring for Core Skills



TECHNOLOGY SKILLS	
Skills Needed for a MAJORITY of Positions:	<ul style="list-style-type: none">• Basic Office Software
Other Commonly Needed Skills:	(none identified through the survey of states)
Skills Needed for a Small Number of Positions:	<ul style="list-style-type: none">• Graphic design• Database design and management• Geographic Information Systems (GIS)• Information technology• Website content management

Hiring for Core Skills



TECHNOLOGY SKILLS

Skills Needed for a MAJORITY of Positions:	<ul style="list-style-type: none"> • Basic Office Software
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience / aptitude using Microsoft Word or other word processing software • Experience / aptitude using Microsoft Excel or other spreadsheet software • Experience / aptitude using Microsoft PowerPoint or other slide presentation software
As part of application or interview process:	<ul style="list-style-type: none"> • As part of the application, for each software application the candidate has in their toolkit, ask for how many years of regular use and how strong they rate their skill level
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Many governmental agencies offer software-specific training for their employees • Microsoft offers free online tutorials for their products • Many private companies and continuing education programs offer courses

TECHNOLOGY SKILLS

Skill Needed for a Small Number of Positions:	<ul style="list-style-type: none"> • Graphic Design
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience in graphic design • Coursework in graphic design and digital design • Aptitude with Adobe InDesign, Adobe Illustrator, Adobe Photoshop, CorelDraw, CorelPaint, or other design and photo-editing software
As part of application or interview process:	<ul style="list-style-type: none"> • Request examples of printed and digital designs • Include staff with expertise in print design, web design, marketing, public relations, publication production, procurement of printing services on the interview panel to evaluate candidate's responses to questions on experience in this area
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses • Training in the design software used by the state

Hiring for Core Skills



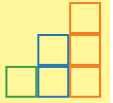
TECHNOLOGY SKILLS

Skill Needed for a Small Number of Positions:	<ul style="list-style-type: none"> • Database Design and Management
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience with database design, deployment and management • Aptitude with relational databases such as Microsoft Access, Microsoft SQL Server, Oracle or other database management software • Microsoft Certified Solutions Associate (MCSA) preferred
As part of application or interview process:	<ul style="list-style-type: none"> • Include staff with expertise in database management on the interview panel to evaluate candidate's responses to questions on experience in this area
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses • Online tutorials offered by private companies

TECHNOLOGY SKILLS

Skill Needed for a Small Number of Positions:	<ul style="list-style-type: none"> • Geographic Information Systems (GIS)
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience creating maps and analyzing data using GIS • Experience creating and working with personal and file geodatabases • Aptitude with Esri products such as ArcMap or ArcInfo
As part of application or interview process:	<ul style="list-style-type: none"> • Include staff with expertise in GIS on the interview panel to evaluate candidate's responses to questions on experience in this area
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • GIS certifications • Local community college or state university courses • ESRI training courses

Hiring for Core Skills



TECHNOLOGY SKILLS

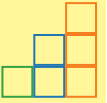
Skill Needed for a Small Number of Positions:	<ul style="list-style-type: none"> • Information Technology
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience with current and previous Windows operating systems • Experience with networking and troubleshooting • Coursework in networking and Microsoft Suite products • Aptitude in Microsoft Sharepoint, Word, Excel, Power Point, Access, Publisher, and Outlook
As part of application or interview process:	<ul style="list-style-type: none"> • Include staff with expertise in IT on the interview panel to evaluate candidate's responses to questions on experience in this area

TECHNOLOGY SKILLS

Skill Needed for a Small Number of Positions:	<ul style="list-style-type: none"> • Website content management (technology, design, and information organization)
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience in web content management, web design, blogging, digital photo editing • Coursework in web development • Aptitude with web mark up language such as HTML and XML • Aptitude with Flash, Adobe Illustrator, Adobe Photoshop, and InDesign (graphic design software) • Aptitude with web programming
As part of application or interview process:	<ul style="list-style-type: none"> • Request examples of web pages or sites developed or maintained by the candidate • Include staff with website management expertise on the interview panel to evaluate candidate's responses to questions on experience in this area
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses • Training in the specific content management system used by the State



COMMUNICATIONS SKILLS	
Skills Needed for a MAJORITY of Positions:	<ul style="list-style-type: none"> • Presentations to groups • Sub-recipient relations • Working with advisory groups • Written communications (addressed previously) <ul style="list-style-type: none"> ◦ “Plain Talk” - Although not included as part of the skills surveyed, one of the state transit directors interviewed indicated that an important skill needed by his staff is “the ability to translate bureaucratic language into ‘plain talk’”
Other Commonly Needed Skills:	<ul style="list-style-type: none"> • Supervisory skills • Training skills • Coordinating interdepartmental groups • Public relations
Skills Needed for a Small Number of Positions:	(none identified through the survey of states)



Hiring for Core Skills

COMMUNICATIONS SKILLS	
Skills Needed for a MAJORITY of Positions:	<ul style="list-style-type: none"> • Presentations to groups • Sub-recipient relations • Working with advisory groups
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience in public speaking, public relations, training, group facilitation • Experience working with diverse groups of people • Coursework in speech, communications, public relations • Aptitude with spoken English
As part of application or interview process:	<ul style="list-style-type: none"> • Evaluate the candidate’s speaking and dynamics during the interview • Ask the candidate to self-assess their comfort in speaking to groups
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Mentoring: involve staff in planning meetings, enlist their assistance in preparing presentations, bring them to public meetings whenever possible, encourage them to present part of longer presentations • Practice: encourage staff to practice with each other, require participating in departmental information-sharing practices/education programs such as brown bag lunch speaker series • Networking: send staff to transit association conferences and professional development meetings

Hiring for Core Skills



COMMUNICATIONS SKILLS

Other Commonly Needed Skills:	<ul style="list-style-type: none"> • Supervisory Skills
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Supervisory experience
As part of application or interview process:	<ul style="list-style-type: none"> • Ask for more details on candidate's supervisory experience, challenges experienced
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses. Examples include: <ul style="list-style-type: none"> ○ State Supervisory Training Certificate Program, California State University, Sacramento College of Continuing Education, includes courses in Delegation and Change Management and Role of the Supervisor • Basic supervisory training is offered by many governments as well as private companies. Examples include: <ul style="list-style-type: none"> ○ The Oregon Bureau of Labor and Industries offers technical assistance seminars including a Training Series for New Supervisors ○ The State of Missouri Office of Administration's Center for Management and Professional Development offers a series of one-day courses for managers and supervisors ○ Seminars from Fred Pryor, SkillPath, etc.

COMMUNICATIONS SKILLS

Other Commonly Needed Skill:	<ul style="list-style-type: none"> • Training Skills
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience conducting training, human resources, education • Experience working with diverse groups of people • Coursework in education, human resources management
As part of application or interview process:	<ul style="list-style-type: none"> • Evaluate the candidate's speaking and dynamics during the interview • Ask for more details on candidate's training experience • Include staff with training expertise on the interview panel to evaluate candidate's responses to questions on experience in this area
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses • Train-the-trainer courses specific to the topic the individual plans to train

Hiring for Core Skills



COMMUNICATIONS SKILLS

Other Commonly Needed Skill:	<ul style="list-style-type: none"> • Coordinating interdepartmental groups
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience working with diverse groups of people, team leadership, business communications, advisory groups, meeting facilitation, conflict resolution
As part of application or interview process:	<ul style="list-style-type: none"> • Ask for examples of shared projects or programs in which the candidates coordinated input from and shared work with multiple departments or organizations
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • How-to guidebooks on coordinating multiple stakeholders. Examples include: <ul style="list-style-type: none"> ◦ <i>Facilitating with Ease! Core Skills for Facilitators, Team Leaders and Members, Managers, Consultants, and Trainers</i> by Ingrid Bens ◦ <i>Facilitator's Guide to Participatory Decision-Making</i> by Sam Kaner, et. al. ◦ <i>The Skilled Facilitator: A Comprehensive Resource for Consultants, Facilitators, Managers, Trainers, and Coaches</i> by Roger Schwarz

COMMUNICATIONS SKILLS

Other Commonly Needed Skill:	<ul style="list-style-type: none"> • Public relations
Include as part of preferred minimum qualifications:	<ul style="list-style-type: none"> • Experience working with public relations, public speaking, outreach, marketing, journalism, business communications, fundraising, advocacy • Education in public relations, marketing, communications, journalism, political science • Aptitude for written and spoken English, interpersonal relations, problem-solving
As part of application or interview process:	<ul style="list-style-type: none"> • Ask for examples of how the candidate conveyed the gist of a technical concept or bureaucratic requirement so that it was understandable to a lay audience.
Sources of training for staff lacking these skills:	<ul style="list-style-type: none"> • Local community college or state university courses. Examples include: <ul style="list-style-type: none"> ◦ The University of Nevada, Las Vegas Continuing Education offers a Public Relations Skills Certificate program ◦ The New York University School of Continuing and Professional Studies offers noncredit certificates and courses in Marketing and Public Relations

Hiring for Core Skills



ADDITIONAL SKILL NEEDS IDENTIFIED IN THE SURVEY

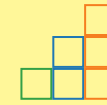
The following additional core skills were listed by state transit directors and new hires in their survey responses:

- Multiple directors indicated:
 - o Communication (even though it was addressed under a category above)
 - o Customer service
 - o Interpersonal skills
 - o Multi-tasking and prioritizing work load

- Single responses:
 - o Adaptability
 - o Advanced analytical skills
 - o Advanced spreadsheet skills
 - o Budget negotiation
 - o Capital improvement/strategic planning
 - o Coaching and motivation skills
 - o Critical thinking
 - o Decision making/problem solving
 - o Interpreting federal language
 - o Leadership skills
 - o Legal review of contracts and requests for proposal
 - o Long range planning
 - o Organization
 - o Peer to peer relationships
 - o Technical accuracy
 - o Transportation/land use planning

Clearly, communications and “people” skills are a high priority for state transit staff, as are basic time management and analytical/problem-solving skills.

Hiring for Core Skills



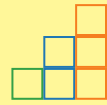
RECRUITING

When it becomes time to recruit - once the detailed job description is completed/updated, the qualifications are determined, and the combination of offerings that will be included in the compensation package have been determined, selection of appropriate recruiting methods is needed. State and local government organizations typically have a standardized method - listing on the state's website, advertising in local newspapers, etc. New hires reported learning of their jobs through states' internal and external websites and word of mouth, among other approaches.

State transit directors may want to extend outreach on the job on a national level, to increase the possibility of recruiting for individuals with experience in managing FTA programs as well as the essential core skills. Relevant organizations which post job listings include:

- AASHTO
- APTA
- CTAA
- State transit associations
- Association for Commuter Transportation (ACT)
- National Grants Management Association (NGMA)
- Conference Of Minority Transportation Officials (COMTO)
- Women's Transportation Seminar (WTS)
- Universities with graduate programs in public administration

Generic job websites such as monster.com may also be effective and reach as many qualified candidates as possible. One of the new hires surveyed reported learning about the job from a job website (other than the state's website).



Answer Key

LEVEL 2 QUIZ QUESTIONS - ANSWER KEY

<i>Module</i>	<i>Questions/Answers</i>						
Introduction to FTA Grants	1) 2	2) 2	3) 2	4) 3			
Legal Authority and Annual Certifications	1) 2	2) 2	3) 1	4) 2	5) 3	6) 1	7) 2
FTA Grant Administration	1) 2	2) 2	3) 1	4) 3	5) 2		
Subrecipient Grant Administration	1) 2	2) 4					
FTA Financial Management	1) 3	2) 1	3) 2				
Subrecipient Financial Management	1) 1	2) 3	3) 2	4) 3	5) 2		
Project Management and Grantee Oversight	1) 2	2) 3	3) 2				
Introduction to Procurement	1) 4	2) 1					
Procurement Policies, Process, and History	1) 2	2) 1	3) 2	4) 1	5) 3	6) 2	7) 1
Disadvantaged Business Enterprise	1) 2	2) 4	3) 3	4) 2			
Buy America and Vehicle Requirements	1) 1	2) 3	3) 2				
State and Metropolitan Planning	1) 1	2) 2	3) 2				
Local Planning	1) 1	2) 3	3) 2				
Public Participation	1) 2	2) 4	3) 2				
Asset Management	1) 1	2) 2	3) 2				
Safety and Security	1) 1	2) 3					
Equal Employment Opportunity	1) 2	2) 3	3) 2				
LaborProtection/SpecialWarranty	1) 1	2) 3					
Drug and Alcohol	1) 1	2) 1	3) 2				
Americans with DisabilitiesAct	1) 2	2) 3	3) 3	4) 1			
Title VI	1) 1	2) 2	3) 2				
Half-Fare	1) 1	2) 4					
Open to Public	1) 2	2) 3	3) 3				
Charter Bus	1) 2	2) 3	3) 1	4) 4			
School Bus	1) 1	2) 1	3) 2	4) 2			

Module 1.1: Introduction to FTA Grants



INTRODUCTION

A subset of the U.S. Department of Transportation, the Federal Transit Administration (FTA) provides federal funding for new and existing public transportation service across the country. For someone new to the field, getting a handle on the requirements of multiple FTA funding programs (not to mention FTA jargon and acronyms) can be overwhelming. This module provides a roadmap to FTA programs administered by states, and context for later and more in-depth modules.

IMPORTANCE FOR STATE DOT STAFF

FTA provides funding under a variety of formula based and discretionary programs. As a recipient of program funding, the state is responsible for administering and managing grants in compliance with all relevant federal regulations. The state is also responsible for overseeing the funds that it passes through to its subrecipients. The state must ensure that subrecipients comply with FTA requirements; the requirements flow through the state along with the funding.

KEY CONCEPTS

- Introduction to Public Transit
- A Brief History of Federal Transit Funding
- Regulatory Structure
- The Role of the States in FTA Programs
- The Programs: S. 5307, 5310, 5311, 5339
- FTA Cross-Cutting Requirements

DEFINITIONS

MAP-21: the acronym for the *Moving Ahead for Progress in the 21st Century Act*, the current authorizing legislation for federal transit funding. Congress establishes the legal authority to commence and continue FTA programs through authorizing legislation covering several years. On July 6, 2012, President Obama signed Moving Ahead for Progress in the 21st Century, reauthorizing surface transportation programs through fiscal year 2014. Each reauthorization amends the Federal Transit Laws codified in 49 USC Chapter 53. MAP-21 took effect on October 1, 2012.

Public Transportation (also called *transit*, *public transit*, or *mass transit*): defined in MAP-21 as “regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income.” The MAP-21 definition also specifically excludes Amtrak

Module 1.1: Introduction to FTA Grants



intercity passenger rail transportation, intercity bus service, charter bus service, school bus service, sightseeing service, courtesy shuttle service for patrons of specific establishments, and intra-terminal or intra-facility shuttle services.

Transit Agency/System: an entity (public or private) responsible for administering and managing transit activities and services. Transit agencies can directly operate transit service or contract out for all or part of the total transit service provided. When responsibility is with a public entity, it is a public transit agency. When more than one mode of service is operated, it is a multimodal transit agency.

LEVEL II PREVIEW

Introduction to Public Transit

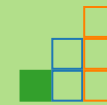
Public transit takes many forms, often referred to in industry jargon as modes, such as local bus service, express bus commuter rail, subway, light rail, bus rapid transit, curb-to-curb paratransit, etc. Most modes fall within one of two major categories of transit service design: fixed-route service and demand-response service. Fixed-route service is provided on a repetitive, fixed schedule basis along a specific route at specific locations, while demand-response is based on individual passenger requests for door-to-door or curb-to-curb transportation. When it comes to FTA funding administered at the state level, public transportation generally falls into three major categories in terms of target market: 1) urban transit, 2) rural transit, and 3) specialized transportation.

A Brief History of Federal Transit Funding

Federal financial assistance for public transportation has a relatively short history, beginning in 1964 when Lyndon Johnson signed the Urban Mass Transportation Act into law. By authorizing funding in support of public transportation, the Johnson administration was attempting to revitalize deteriorating urban transit systems. Shortly after came the creation of the U.S. Department of Transportation and the Urban Mass Transportation Administration (UMTA), changed to FTA in 1991.

Regulatory Structure

Module 1.1: Introduction to FTA Grants



Laws and regulations are the basis for FTA funding assistance, and they are referenced time and time again in FTA resources. Also known as **federal statutes**, laws like MAP-21 are enacted by Congress and codified in the United States Code (USC). These laws are the top rung in a hierarchy of FTA requirements. Next are **federal regulations**, issued by agencies like FTA that get their authority to regulate from the enabling statutes. Regulations are designed to interpret the statutes and detail implementation and enforcement. The **FTA Master Agreement** is the next level in the hierarchy. Updated annually, its purpose is to detail terms and conditions applicable to all grant recipients. The Master Agreement also spells out that as recipients, *states are responsible for oversight of their subrecipients*. Ranking lowest in the hierarchy is administrative guidance (e.g. directives, orders, guidelines, FTA circulars, and policy letters). These provide instructions to grantees or other stakeholders on how FTA grants will be administered.

The Role of the States in FTA Programs

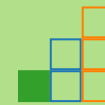
States must develop and submit a **State Management Plan (SMP)** to FTA for the S. 5310 and S. 5311 programs (either stand-alone plans or combined). The SMP details the policies and procedures used to administer the programs and serves as a guide for subrecipients. States must also submit a **Program of Projects (POP)** to FTA. The POP lists all subrecipients and identifies the projects for which the state is applying for financial assistance. In addition, states must ensure that their subrecipients are involved in a coordinated public transit-human services transportation planning process.

The FTA Funding Programs

Though the details differ, a handful of characteristics are typical of most FTA funding programs:

- Eligible expenses vary by program (capital, operating, or planning)
- Eligible recipients and sub-recipients vary by program (states, local government authorities, private non-profits, public transit operators, etc.)
- All have local match requirements
- All have post-award reporting requirements
- Some have National Transit Database reporting requirements (S. 5307 and S. 5311 recipients)

Module 1.1: Introduction to FTA Grants



- All involve FTA oversight reviews. The two comprehensive reviews are the Triennial Review (S. 5307 recipients) and the State Management Review (S. 5311 and S. 5310 recipients)

Under MAP-21, state DOTs administer the S. 5310, S. 5311, and S. 5339 programs. Many states also administer the S. 5307 program for small urbanized areas. Prior to the passage of MAP-21, states also administered the former S. 5316 Job Access and Reverse Commute program (folded into the S. 5307/5311 programs) and S. 5317 New Freedom program (folded into the S. 5310 program).

Section 5307 – Urbanized Area Formula Program: Funding to urbanized areas (UZAs), i.e. areas with a population of 50,000 or more as designated by the Census Bureau.

Section 5310 – Enhanced Mobility of Seniors and Individuals with Disabilities: Funding to improve mobility for seniors and individuals with disabilities, including services that go beyond ADA requirements. The program spans geographies—from rural to urban.

Section 5311 – Formula Grant for Rural Areas: Funding to support public transportation in rural areas (less than 50,000 in population). Capital, operating, planning, and job access and reverse commute (JARC) project expenses are eligible.

Section 5339 – Bus and Bus Facilities: Capital funding for new and replacement buses and bus-related facilities.

FTA Cross-Cutting Requirements

In addition to program-specific requirements, state DOTs and their subrecipients must meet numerous other FTA and federal requirements. These include federal laws like the Americans with Disabilities Act, National Environmental Policy Act, and Title VI of the Civil Rights Act. Other examples include procurement requirements dealing with Buy America and Disadvantaged Business Enterprises, or National Transit Database reporting. Recipients of funding under the S. 5307 program are also subject to additional specific requirements.

Module 1.2: Legal Authority and Annual Certifications



INTRODUCTION

This module addresses the basic legal requirements to receiving FTA funds, including those related to conducting business in an ethical manner. Grantees must be eligible and authorized under state and local law to request, receive, and dispense FTA funds and to execute and administer FTA funded projects. The authority to take actions and responsibility on behalf of the grantee must be properly delegated and executed.

Before expending any FTA funds on projects, the state certifies to FTA that it, and others operating on its behalf, have met all statutory and program requirements. The governor of your state has designated your agency with the principal authority and responsibility for administering the FTA program funds and has assured FTA that your agency has the requisite technical capacity to receive and administer those funds. Your agency, on the other hand, is responsible for ensuring that your subrecipients are aware of and comply with the federal requirements associated with the FTA programs. Thus, the state must have an on-going system to ensure that subrecipients adhere to federal requirements. Subrecipient oversight starts with 1) your review of the legal authority of subrecipients, and 2) their assurances (by signing the annual certifications) that they will comply with the federal rules.

KEY CONCEPTS

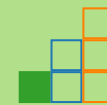
- Subrecipient Legal Authority
- Role of the Governing Body and Advisory Committee
- Subrecipient Certifications and Assurances
- Suspension/Debarment
- Lobbying Restrictions

In addition to having the subrecipients sign their annual certifications and assurances, two additional actions are required of the state – one dealing with the restrictions on lobbying and another dealing with ensuring that subrecipients are not barred from doing business with the federal government.

IMPORTANCE FOR STATE DOT STAFF

Establishing that your subrecipients are authorized to receive FTA funds is a critical part of every state's transit program. The certifications and assurances are generally handled as part of the state's annual grant application process and are intended to ensure that subrecipients comply with federal regulations as outlined in the FTA Master Agreement. It is important that subrecipients understand and comply with these requirements since ultimately, if they are not in compliance, the state is not in compliance.

Module 1.2: Legal Authority and Annual Certifications



DEFINITIONS

Covered Federal Action: Any of the following federal actions: (1) the awarding of any federal contract; (2) the making of any federal grant; (3) the making of any federal loan; (4) the entering into of any cooperative agreement; and, (5) the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

Debarred or Suspended: Contractors that have been “debarred or suspended” have been declared ineligible, on the basis of statutory or other regulatory procedures, and are excluded from receiving contracts, and if applicable, subcontracts from the federal government.

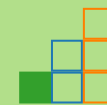
Designated Recipient: (A) an entity designated, in accordance with the planning process under S. 5303 and S. 5304, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under S. 5336 to urbanized areas of 200,000 or more in population; or (B) a State or regional authority, if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.

Lobbying (influencing or attempting to influence): Making any communication to or appearance before an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered federal action.

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

Subrecipient: An entity that receives FTA funds via a pass-through agreement with a direct recipient or designated recipient, whereby the original recipient remains responsible for compliance with all terms, conditions and requirements associated with the grant. A state’s FTA subrecipients are typically local governmental authorities, private nonprofit organizations, and operators of public transportation.

Module 1.2: Legal Authority and Annual Certifications



LEVEL II PREVIEW

Subrecipient Legal Authority

States are the designated recipient for the FTA funds under S. 5311, S. 5310 (for rural and small urbanized areas; states can be the designated recipient for large urbanized areas as well), and S. 5307 (for small urbanized areas). Local subrecipients must be eligible and authorized under state and local laws to request, receive, and dispense FTA funds and administer FTA-funded projects. The authority to take necessary action and responsibility on behalf of the grantee must be properly delegated and executed.

For S. 5310 and S. 5311, each state establishes its own criteria for what constitutes eligibility/authority to receive and administer funds, within the limits of FTA-established eligibility restrictions for each program. For S. 5307, each recipient must have an authorizing resolution that identifies the individuals authorized to act on its behalf. A certified copy of the authorizing resolution is required for all FTA S. 5307 recipients. FTA only requires the authorizing resolution to be submitted prior to the grant applicant's first application. For subsequent grant applications, FTA relies on the annual certifications and assurances.

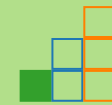
Role of the Governing Body and Advisory Committee

The authorizing resolution for S. 5307 recipients must be from the governing body of the grant applicant, a statute, or an ordinance. Certain FTA-required policies and programs are required to be adopted by the governing body of each subrecipient. Although not required by FTA, a recommended practice is that each S. 5307 and 5311 subrecipient also have an ongoing advisory committee for planning FTA-funded service and policy changes.

Subrecipient Certifications and Assurances

Before FTA may award federal funding, an applicant must provide to FTA all certifications and assurances required by federal laws and regulations. This is required of all states, and the states in turn pass on the requirement to their subrecipients, typically as part of the grant application.

Module 1.2: Legal Authority and Annual Certifications



Near the beginning of each federal fiscal year, FTA publishes the certifications in the *Federal Register*, highlighting any changes or additions from the previous year. The authorized representative of the recipient must make the requisite certifications. The person signing the annual certifications should be the same person/position/title designated in the transit agency's authorizing resolution.

Suspension/Debarment

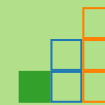
Federal rules impose a statutory requirement on FTA grantees to award contracts made with FTA assistance only to responsible contractors. To prevent fraud, waste, and abuse, persons or entities that potentially threaten the integrity of federally administered non-procurement programs are excluded from participation in FTA-assisted programs. FTA grantees and subrecipients are required to certify that they are not excluded from federally-assisted transactions. The grantees comply with this requirement in their annual certifications and assurances with the Debarment/Suspension certifications.

Lobbying Restrictions

The use of federal funds for lobbying is prohibited. Recipients (and their contractors and sub-recipients) receiving federal grants and contracts over \$100,000 must certify compliance with this restriction. FTA's Master Agreement states that recipients shall not use federal funds to influence or attempt to influence a federal agency officer/employee, member/officer/employee of Congress, or employee of a member of Congress.

Recipients of federal grants and contracts exceeding \$100,000 must certify that they have not and will not make prohibited payments (i.e., paying a lobbyist with federal funds). Recipients are permitted to hire a lobbyist if they pay for the services with non-federal funds. However, they must submit a disclosure form to FTA, the Standard Form LLL. As well as filing for themselves, states are responsible for ensuring that subrecipients file certifications and disclosure forms, and also that subrecipients pass the requirements on to their contractors and subcontractors for awards exceeding \$100,000.

Module 1.3: FTA Grant Administration



INTRODUCTION

This module addresses the FTA grant administration requirements in terms of how states interface with FTA. The basic requirements are that the state must develop an annual program of projects, track and report on the progress of projects, report to the National Transit Database, and close out projects and grants when project activity is completed.

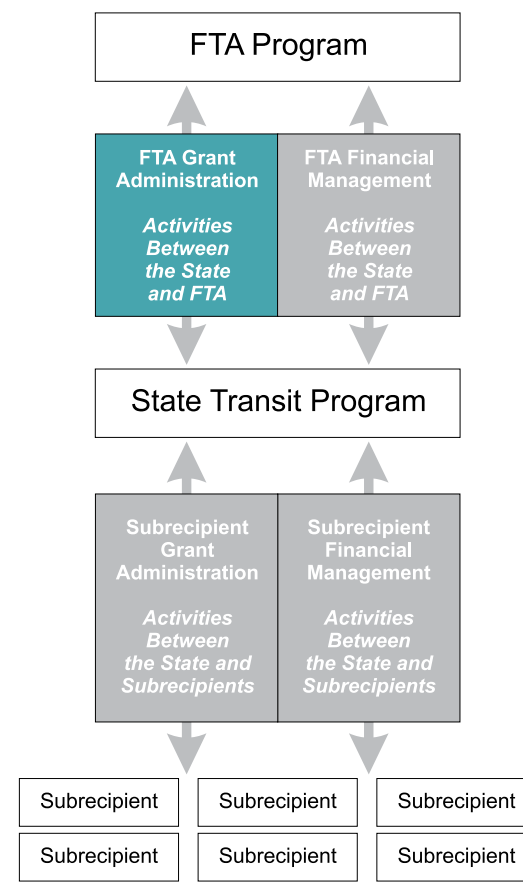
It is useful to remember that states have two major roles in administering and managing grants: 1) the grantee to FTA, and 2) the grantor to subrecipients. State-to-subrecipient grant administration requirements are addressed in the next module in this curriculum. Grant administration is closely related to financial management, as illustrated in the diagram to the right. New state staff should review this module before proceeding to Subrecipient Grant Administration or either of the financial management modules.

KEY CONCEPTS

- Life Cycle of a Grant
- State Management Plans
- Program of Projects
- Grant Application Process
- Interfacing with FTA/Using TEAM-Web
- Milestone Progress Reports
- National Transit Database
- Grant Modifications
- Grant Close-Out

IMPORTANCE FOR STATE DOT STAFF

The FTA grants to your agency need to be managed in order for you, the state, to fund local transit systems. There may be only a few people (or one person) in your agency who handle this function as it is fairly specialized. Even if you are not one of those people, it is still useful to understand. This is especially true if you have responsibilities with respect to local transit agencies; FTA grants requirements affect how you will manage the flow of funds and how the funds are used by subrecipients.



Module 1.3: FTA Grant Administration



Further, a state may be cited as deficient in a State Management Review (SMR) if FTA grant funds allocated to the state are not spent during their period of availability. Such grants may be subject to grant close-out so that the funds can be deobligated and redistributed to other states. If a state does not allocate Section 5310 and 5311 funding to specific projects before the end of the period of availability, these funds will be deobligated by FTA. In the simplest terms, states should “use it or lose it.”

DEFINITIONS

Program of Projects (POP): A list of projects to be funded in a grant application submitted to FTA by a state or designated recipient. The POP lists the subrecipients and indicates what type of organization they are, a brief description of each project, total project cost, and federal share for each project.

TEAM: FTA’s current web-based Transportation Electronic Award and Management system (in use at the time this curriculum was developed). TrAMS is anticipated to replace TEAM beginning in FY 2015. Among other things, grantees apply for grants, inquire about the status of grants, file the required financial report and milestone progress reports, and submit annual Certifications and Assurances in TEAM.

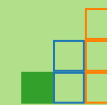
TrAMS: FTA’s forthcoming new web-based Transportation Transit Award and Management system, which is anticipated to replace TEAM beginning in FY 2015.

LEVEL II PREVIEW

Life Cycle of a Grant

Each FTA grant has a life cycle, which is useful to understand before getting into the grants management requirements that apply to various stages of the cycle. An overview of the FTA-to-state grant life cycle is provided in the following text box.

Module 1.3: FTA Grant Administration



The Life of a Grant

1. **Planning** - Before a state can even apply for FTA funding, it must go through a planning process to identify the projects it proposes to conduct using FTA funding. As a key part of the planning process, local subrecipients apply to the state. The state must determine which local subrecipient projects it plans to fund before the state can apply for FTA funding for these projects. States typically conduct the local process annually or biennially.
2. **Program of Projects (POP)** - The state develops an annual program of projects (POP). The POP is a compilation of all of the subrecipient projects planned under each FTA funding program, as well as state-level projects, and provides the basis for the state's annual funding application.
3. **Applying to FTA** - The state applies for FTA funding through FTA's web-based grants management system (beginning in FY 2015, TrAMS; until then, TEAM).
4. **FTA Grant Award and Execution** - For each FTA program (S. 5310, S. 5311, etc.), FTA awards a single annual grant to the state. Both parties execute the grant agreement.
5. **State Management of Grant** - Once the grant has been awarded and executed, the grant is now active, and state-level activities can begin that can be reimbursed with grant funding. Throughout a grant's active life, the state must submit milestone progress reports (MPRs) and financial reports (FFRs) to FTA.

State Management Plans

States must develop and submit a State Management Plan (SMP) to the FTA for the S. 5310 and S. 5311 programs (either stand-alone plans or combined). The SMP details the policies and procedures used to administer the programs. The SMP must be current and reflect actual practices, and include the elements outlined in the program circulars.

Program of Projects

Each state prepares an annual program of projects (POP) for each FTA program it administers and submits to FTA. The POP serves as the scope of projects to be funded within each FTA grant to the state and constitutes the scope of the annual grant application to FTA. The POP identifies the subrecipients and indicates what type of organization they are, provides a brief description of each project, total project cost, and federal share for each project, as well as the amount of funds the state plans to use for state program administration. FTA allows states to submit grant applications that include subrecipient projects at various stages of compliance with applicable federal requirements.

Module 1.3: FTA Grant Administration



Grant Application Process

FTA's program-specific circulars describe the grant application process and requirements for each program. States should refer to these circulars for instructions for completing a grant application, which is submitted electronically through the web-based TEAM or TrAMS system.

FTA notifies states by phone or e-mail of grant approval. The FTA grant agreement includes the notification of award and the approved project budget. Once the state receives the notification of grant award, the state executes the grant in TEAM/TrAMS. The electronic execution of the FTA grant agreement signifies the grant is active. At this point, the state can execute its subrecipient grant agreements for those projects that it has certified as having met all the applicable federal statutory and administrative requirements (both for the project activities and for the subrecipient that will carry out those activities).

Interfacing with FTA/Using TEAM-Web

The primary mechanism with which states interface with FTA is FTA's web-based grants management system. At the time this curriculum was developed, the system in use is TEAM. However, TEAM will be replaced by TrAMS. FTA anticipates that TrAMS will go live in October beginning in 2014, thus replacing TEAM beginning in FY 2015, with each state's electronic records from TEAM migrated into TrAMS. Among other things, grantees apply for grants, inquire about the status of grants, file the required financial report and milestone progress reports, and submit annual Certifications and Assurances in TEAM/TrAMS. When a state staff member needs to interface with a live human being at FTA, this is typically through the FTA Regional Office.

Milestone Progress Reports

The state has ongoing reporting requirements for each active grant, including a Federal Financial Report (FFR) and the Milestone/Progress Report (MPR) submitted annually or quarterly, depending upon the specific grant.

FTA reporting requirements may vary depending on the size of the grantee, the type of funding, or the amount of funding a grantee receives. FTA uses these reports to monitor grant status and compliance elements, such as:

- The purposes of the grant are being achieved;
- The project is progressing on time and within budget;

Module 1.3: FTA Grant Administration



- The grantee is demonstrating competence and control in executing the project;
- The project meets all program requirements;
- Any problems developing that may require FTA resources to resolve.

The MPR is the primary written communication between the grantee and FTA. For each active/executed grant, the state must submit an MPR that accompanies the FFR. This report is submitted electronically in TEAM/TrAMS.

National Transit Database

The National Transit Database (NTD) is FTA's primary national database for statistics on the transit industry. Recipients of FTA S. 5311 grants are required to submit an annual NTD report for all S. 5311 beneficiaries and subrecipients. This requirement also applies to recipients of Congestion Mitigation and Air Quality Improvement Program (CMAQ) and Surface Transportation Program (STP) funds that are "flexed" into the 5311 program.

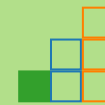
Grant Modifications

After grant approval, the state can still make revisions to the POP and project budget. Grant modifications are electronically submitted, reviewed, and approved in TEAM/TrAMS. There are three ways to modify a grant after it has been awarded—either through a budget revision, an administrative amendment, or a grant amendment. Whether a budget revision may be permitted (with or without prior FTA approval before incurring costs) or whether an amendment to the project will be necessary, depends on the effect of the proposed change on the scope of the project.

Grant Closeout

States should close out their grants with FTA within 90 days of completion of program activity, following close-out of all subrecipient projects (discussed in the Subrecipient Grant Administration module). A final Financial Status Report (FSR), budget, and milestones report should be electronically submitted.

Module 1.4: Subrecipient Grant Administration



INTRODUCTION

This module addresses FTA grant administration requirements related to allocating funds to subrecipients, subrecipient grant applications and agreements, subrecipient reporting requirements, and project/grant close out when project activity is completed, as well as the state's role in oversight of these requirement areas.

Prior to reviewing this module, it is recommended that new state staff review the FTA Grant Administration module. Subrecipient grant administration is also closely related to financial management, as illustrated in the diagram to the right.

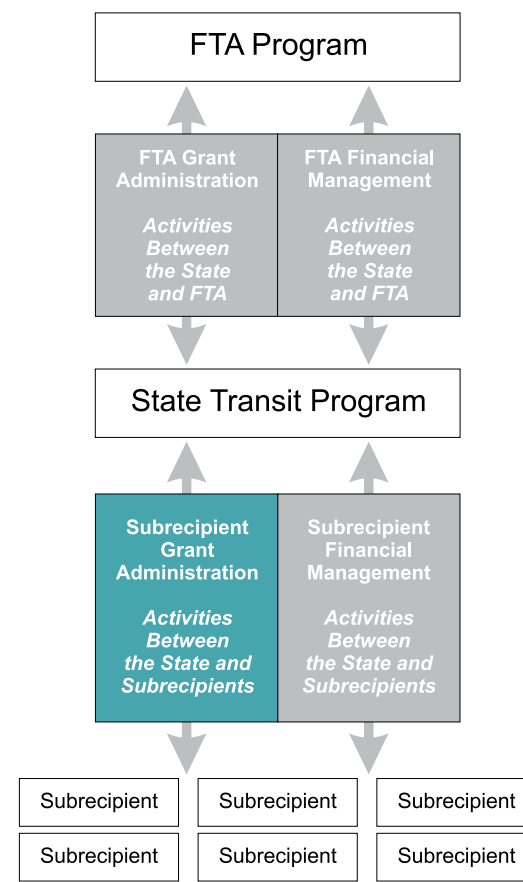
IMPORTANCE FOR STATE DOT STAFF

This function is important to you since it represents the core function of your division – making sure that your subrecipients, local transit agencies, have access to the federal dollars

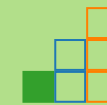
they need to provide public transit in their communities. Most state transit staff members are involved in this function at some level. Further, your state may be cited as deficient in a State Management Review (SMR) if it does not comply with each FTA requirement. The state oversees its subrecipients, and is responsible for ensuring that subrecipient projects are completed on time and that data are reported as needed for the state's reports to the FTA.

KEY CONCEPTS

- Subrecipient Grant Applications
- Subrecipient Funding Allocations/Project Selection
- Subrecipient Grant Agreements
- Subrecipient Reporting and Tracking
- Subrecipient Project Close-Out



Module 1.4: Subrecipient Grant Administration



DEFINITIONS

Please refer to the definitions in the FTA Grant Administration module.

LEVEL II PREVIEW

The Life of a Subrecipient Grant

States have two major roles in administering and managing grants: 1) the grantee to FTA (described in the FTA Grant Administration module), and 2) the grantor to subrecipients (described in this module). An overview of the state-to-subrecipient grant life cycle is provided in the following text box. The state's grants to subrecipients have their own life cycle embedded within the active FTA-to-state life cycle.

The Life of a Subrecipient Grant

- a. **Subrecipient Planning** - States generally require some type of planning activities from subrecipients. Requirements may vary by FTA program.
- b. **Subrecipient Application** - The state relies on the subrecipient applications to develop the state's POP (stage 2 of the FTA-to-state grant life cycle).
- c. **State Application to FTA on Behalf of the Subrecipients** - This happens in stage 3 of the FTA-to-state grant life cycle.
- d. **State Grant Award and Execution** - After the state has received the state grant from the FTA, the state executes its own grants to the subrecipients. This and the rest of the subrecipient grant activities fall within stage 5 of the FTA-to-state grant life cycle.
- e. **Subrecipient Project Activity** - The subrecipient conducts the project activities and incurs project costs.
- f. **Subrecipient Submittals to State** - The subrecipient submits requests for reimbursement and supporting documentation, and project progress reports to the state. These submittals provide the basis for the next step.
- g. **State Submittals to FTA** - The state submits Federal Financial Reports (FFRs) and Milestone/Progress Reports (MPRs) to FTA through TEAM/TrAMS.
- h. **FTA to State to Subrecipient Reimbursement** - Once the state receives dollars from FTA, the state reimburses its subrecipient.
- i. **State Close-out of Subrecipient Grant** - The state monitors subrecipient grant activity and project milestones. Once the project is complete (or, for inactive grants, when the funding availability is due to expire), the state initiates grant close-out with the subrecipient. Once the grant is closed out, the funds are no longer available to the subrecipient.

Module 1.4: Subrecipient Grant Administration



Subrecipient Grant Applications

States typically have a subrecipient grant application process for determining which projects should receive FTA grant funding. States develop their own local grant application policies, procedures, formats, and means of submission. Some states require a separate application for each FTA and state funding program. Others have a consolidated or partially consolidated application.

Subrecipient Funding Allocations/Project Selection

Each FTA grant program has its own set of requirements related to how states should distribute funds among local projects. Each state determines its own subrecipient funding allocation formulas and project selection criteria for the FTA and state grant programs it administers. States are generally given broad discretion on how they design their local project selection process, so long as their process meets program-specific federal requirements. States must also ensure that distribution of funding does not violate Title VI of the Civil Rights Act, and must have procedures for assuring equity of distribution of benefits among groups within the state.

Subrecipient Grant Agreements

A state-to-subrecipient grant agreement is executed by the state for each subrecipient project selected for FTA funding. The agreement typically spells out the project(s) to be funded, the amount of federal funding provided (as well as any state funds to be used in the project), the local match the subrecipient must provide, and the gamut of federal requirements with which the subrecipient agrees to comply in accepting FTA funds.

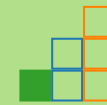
Subrecipient Reporting and Tracking

Each state establishes its own financial and project progress reports required for its subrecipients, as well as reports on data needed for rural NTD submission. The subrecipient progress reports allow the state to complete its Federal Financial Reports (FFRs) and Milestone/Progress Reports (MPRs).

Subrecipient Project Closeout

The state must close out subrecipient projects within 90 days of completion of project activities (after all funds are expended and/or all work activities for the project are completed). State close-out of its own grants from FTA is contingent upon first closing out its subrecipient grants. States need to closely monitor subrecipients to ensure that grant activities are completed in accordance with the project scope and that disbursement of FTA funds are requested in a timely manner.

Module 1.5: FTA Financial Management



INTRODUCTION

This module addresses FTA requirements that subrecipients must comply with related to how grant funds are handled, accounted for, reported, and matched, as well as the state's role in oversight of this requirement area.

Prior to reviewing this module, it is recommended that new state staff review the following modules: FTA Grant Administration and Subrecipient Grant Administration. Financial management is closely related to grant administration, as illustrated in the diagram to the right.

IMPORTANCE FOR STATE DOT STAFF

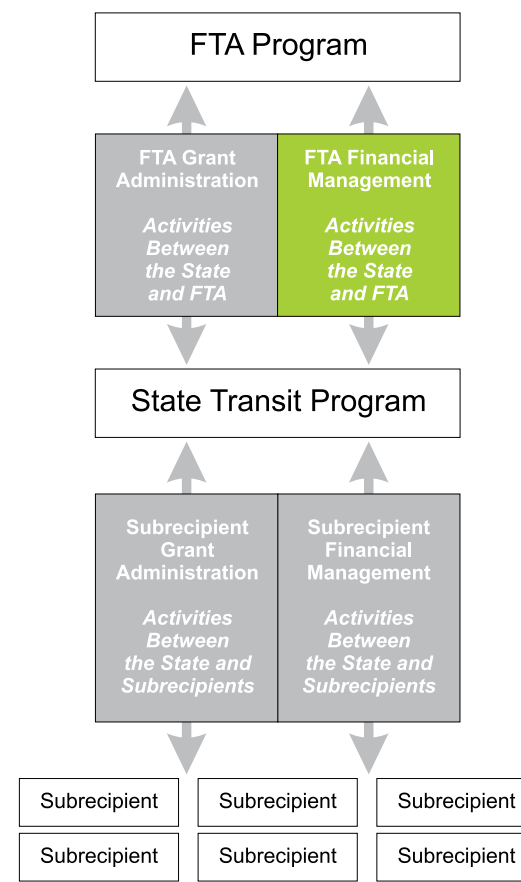
A state may be cited as deficient in a State Management Review (SMR) if it does not comply with each FTA requirement. Without sufficient local match funding, the state may not be able to draw down all FTA funds. Funds which are not obligated during their period of eligibility to the state will be deobligated by FTA for reallocation to other states.

KEY CONCEPTS

- Budgeting
- Accounting
- Financial Reporting and Financial Status Reports
- Funds Management
- Federal Financial Interest in Assets

DEFINITIONS

Activity Line Item (ALI): The description and dollar amount contained in the budget for an approved grant activity associated within a particular scope approved as part of a grant. ALIs under each scope are informational and are used as tools for FTA and the grantee to manage the grant.



Module 1.5: FTA Financial Management



Depreciation: Method used to calculate the reduction in value of an item of personal or real property over time. Is the term most often used to indicate that personal property has declined in service potential.

Electronic Clearing House Operation (ECHO): ECHO is a web-based application that processes draw down requests and makes payments to FTA grantees.

Obligate/De-obligate: To bind or commit grant funds to a project/to undo this commitment

Program of Projects (POP): A list of projects to be funded in a grant application submitted to FTA by a designated recipient. The POP lists the subrecipients and indicates what type of organization they are, a brief description of the projects, total project cost, and federal share for each project.

LEVEL II PREVIEW

Budgeting

A budget is an estimate of income and expenditures related to a particular organization, program, or project for a set period of time. State FTA program managers are challenged with developing budgets that address FTA grant requirements while fitting into the state's own budgeting processes, and also incorporating subrecipient grant/project budgets into the state's POP.

FTA grant budgets are typically prepared by state DOTs on an annual basis, and submitted as part of the annual grant application. States prepare an overall budget for each FTA grant program that includes subrecipient projects as well as specific state-level projects to be funded by that grant. These projects are aggregated into a POP for each grant. A state combines the various subrecipients' projects into standard activity line items (ALIs).

At the federal level, FTA grant programs are apportioned to programs and allocated to states for the 12-month period of October 1 through September 30 (the federal fiscal year). State allocations for the upcoming fiscal year are typically published in the *Federal*

Module 1.5: FTA Financial Management



Register in early October. Once this notice is published, the state knows how much FTA funding (total by grant) is available to the state (including its subrecipients) for the next 12 months, and the state can prepare its FTA grant budgets, obligating the funds FTA allocates to it, and allocating those funds to its own subrecipients. Although each FTA grant is awarded in a specific fiscal year, depending on the program and type of project, a grant may span multiple federal years.

Accounting

The state (and its subrecipients) must have fiscal control and accounting procedures sufficient to permit preparation of required reports, and permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. States must be able to trace reimbursements to source documents, like invoices for goods or services or timesheets.

Financial Reporting and Financial Status Reports

As described in the FTA Grant Administration module, the state has ongoing reporting requirements for each active grant, including the Federal Financial Report (FFR) and the Milestone/Progress Report (MPR) submitted annually or quarterly, depending upon the specific grant. The purpose of the FFR (Standard Form (SF) 425) is to provide a current, complete, and accurate financial picture of the grant. For each active/executed grant, the state must submit an FFR that accompanies the MPR. This report is submitted electronically in TEAM/TrAMS.

Funds Management

A grant's funds are available for a finite period. The period of availability varies by program, with the year of apportionment plus additional years. A state need not apply for all its funds the year the funds are apportioned, but states must obligate funds before the period of availability ends. Any funds remaining unobligated at the end of the period of availability are added to the next year's federal program apportionment and are reapportioned among all states (or UZAs in the case of S. 5307).

MAP-21 (and SAFETEA-LU) allows the states flexibility in transferring funds among the various state-administered programs such as

Module 1.5: FTA Financial Management



S. 5310 and S. 5311. Funds transferred must be used for the express purposes designated by the original program. Further, within an FTA program, states may have some flexibility in transferring allocations between geographic areas or types of projects.

U.S. DOT's Electronic Clearinghouse Operation (ECHO) is the primary automated application used by FTA grant recipients (grantees) to request payments from their grant awards.

Federal Financial Interest in Assets

FTA retains a financial interest in the value of an FTA-funded capital asset (such as a vehicle or facility) until the asset has exceeded its useful life. The federal financial interest amounts to the federally-funded portion. For assets that depreciate (such as vehicles), the federal interest depreciates as well. For a \$100,000 vehicle that was purchased with 80% federal funds that is currently valued at \$10,000, FTA has a \$8,000 federal interest.

FTA provides a useful life policy for rolling stock, trolleys, ferries, facilities, and some equipment funded under S. 5307. Removal of an FTA-funded vehicle from revenue service before the end of its minimum useful life, except for reasons of fire, collision, or natural disaster, leaves the recipient liable to FTA for the federal share of the vehicle's remaining value.

Module 1.6: Subrecipient Financial Management



INTRODUCTION

This module addresses the FTA requirements that subrecipients must comply with related to how grant funds are handled, accounted for, reported, and matched, as well as the state's role in oversight of this requirement area.

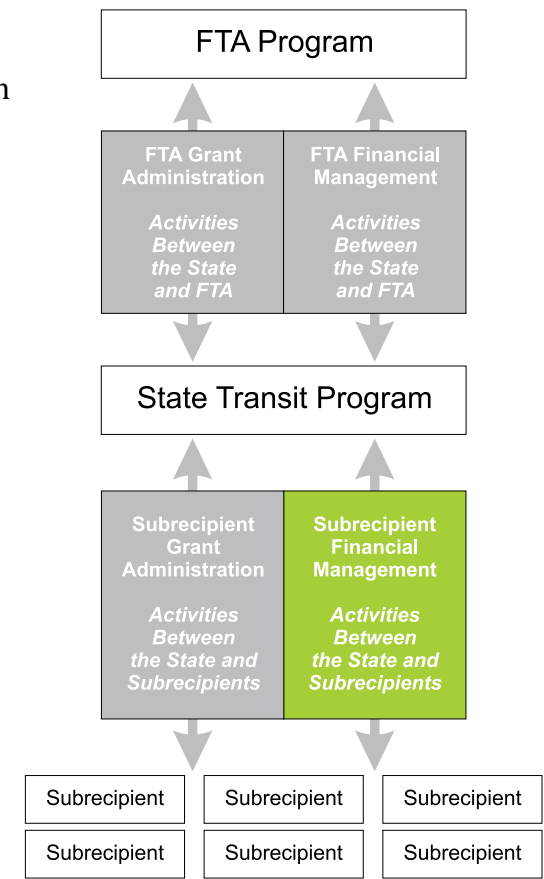
Prior to reviewing this module, it is recommended that new state staff review the following modules: FTA Grant Administration, Subrecipient Grant Administration, and FTA Financial Management. Financial management is closely related to grant administration, as illustrated in the diagram to the right.

IMPORTANCE FOR STATE DOT STAFF

It is important that your subrecipients have the financial capacity to manage the federal (and state) transit grants that they are awarded by your agency. As the "grantor", you are responsible for ensuring that your subrecipients are meeting all the federal regulations and managing their grants in an effective and compliant manner. A state may be cited as deficient in a State Management Review (SMR) if it does not comply with each FTA requirement. The state has oversight responsibility for subrecipients, and is responsible for reviewing subrecipient reimbursement requests and supporting documentation to ensure that only eligible expenses are being charged to the grant.

KEY CONCEPTS

- Subrecipient Financial Capacity
- Eligible Expenditures
- Cost Allocation/Indirect Costs
- Local Match
- Force Account Activities
- Audit Requirements and Review



Module 1.6: Subrecipient Financial Management



DEFINITIONS

Please refer to the definitions in the FTA Financial Management module.

LEVEL II PREVIEW

Subrecipient Financial Capacity

Annually, the state certifies to FTA (as part of the annual certifications and assurance process) that it and its subrecipients have the financial capacity to carry out its proposed program of projects. This entails having adequate local funds to match the federal funds, since unless the minimum local match is provided for a grant project, the federal funds cannot be drawn down. Further, because FTA funding is provided on a reimbursement basis, subrecipients must have adequate cash flow to keep the service operating, vehicles maintained, etc. while waiting for reimbursement from FTA through the state.

To ensure that subrecipients have adequate financial capacity, the state must obtain and maintain sufficient documentation from each subrecipient to support the certification to FTA. States have discretion in how this is accomplished, but generally require applicants to list the sources of funding that will be applied to the project.

Eligible Expenditures

Eligible costs must specifically relate to the purpose of the grant contract and the latest approved project budget. Each FTA funding program has parameters on what expenses are eligible; the nature of the grant (capital, operating, etc.) will further limit what is considered eligible under that grant, and the project budget specifically defines what is considered eligible for FTA reimbursement.

Cost Allocation/Indirect Costs

Under federally funded grant programs, recipients may incur both direct and indirect costs. Indirect costs are organizational costs which are not directly attributable to a specific program or project (sometimes referred to as overhead).

Module 1.6: Subrecipient Financial Management



An approved cost allocation plan is required to support the distribution of a subrecipient's indirect costs to the FTA grant program. The cost allocation plan must be approved by FTA or the federal agency that provides the most funding to the subrecipient (referred to as the "cognizant" federal agency). States are responsible for oversight of subrecipients' indirect cost allocation plans, including ensuring plan submission to the cognizant federal agency.

Local Match

The state must ensure each subrecipient has or will have the required local match for all FTA-assisted projects and has or will have sufficient funds to operate and maintain the vehicles and equipment purchased under the projects. Revenue sources should be stable and reliable enough to meet future annual operating and routine capital costs. The state must obtain and maintain sufficient documentation from each subrecipient to support its certification to FTA. The state must ensure that subrecipients use only eligible funds as local match and that volunteer or in-kind services are fully documented. State assistance may provide some or the entire local match. However, all of the match must come from non-U.S. DOT sources, except for Federal Lands Highway Program funds.

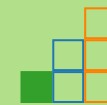
Force Account Activities

When a subrecipient uses its own work force to carry out a capital grant project, rather than using contractors (e.g. public works staff installing bus shelters), this is referred to by FTA as "force account" work. The state must ensure that each subrecipient that has force account work of \$100,000 or more has a force account plan and justification on file. When work to be performed using force account is valued less than \$100,000, no plan is required.

Audit Requirements and Review

Non-federal entities that expend \$500,000 or more in a year in federal awards must have a single or program-specific audit conducted for that year. The state must ensure that subrecipients that meet this threshold comply with the requirement; items purchased by the state for a subrecipient count towards a subrecipient's single audit threshold. However, FTA does not require a single audit of a subrecipient when assistance is provided solely in the form of capital equipment procured directly by the state.

Module 1.7: Project Management and Grantee Oversight



INTRODUCTION

This module addresses general requirements and responsibility related to oversight of FTA recipients and subrecipients, as well as the state's responsibility for technical oversight of subrecipient capital projects (covered in the State Management Review workbook in the "Project Management" section).

FTA oversees program management activities conducted by state DOTs through several kinds of in-depth reviews.

States are responsible for ensuring that their subrecipients comply with FTA requirements associated with each grant or project. FTA requires grantees (including states) to maintain satisfactory continuing control of federally-funded real property, facilities, and equipment, and to ensure that they are used in transit service. In addition to requiring subrecipients to sign and submit annual certifications and assurances, states also need to monitor subrecipients and how they are using their FTA grant funds and FTA-funded equipment and facilities to ensure that the funds are being used as intended. Further, they need to enforce any requirements in which a subrecipient is found to be deficient.

State DOTs must ensure the continuous management of FTA funded projects. Procedures must be in place for quality control and technical supervision.

KEY CONCEPTS

- FTA Compliance Reviews of States
- State Reviews of Subrecipient Compliance
- Project Management of Facility Construction or Rehabilitation Projects

IMPORTANCE FOR STATE DOT STAFF

State DOTs are responsible for oversight of their subrecipients' compliance with FTA requirements. State transit staff need to maintain documentation of grant program activities as well as oversight of subrecipients. State DOTs generally accomplish this function by conducting both on-going and periodic compliance reviews of their grantees to ensure compliance with federal and state regulations as well as continuing control of federally-funded

Module 1.7: Project Management and Grantee Oversight



assets. One aspect of oversight that is important but often overlooked is following up on areas of non-compliance with subrecipients and documenting their corrective actions.

State DOTs must ensure the continuous management of FTA funded projects, whether the projects are conducted by the state or by its subrecipients. Management of capital projects requires technical knowledge.

DEFINITIONS

Capital Project: in general, projects that involve purchasing, leasing, constructing, maintaining, or repairing facilities, rolling stock and equipment intended for use in a public transportation system. Capital project costs may include all direct costs and indirect costs associated with the project. Eligible expenses for capital projects vary by grant program.

Federal Interest: the federally-funded portion of an asset's value. For an asset that was purchased using 80% FTA funding and 20% local match funding, the federal interest would be 80% of the current fair market value of the asset (factoring in depreciation).

Useful Life: the expected lifetime of project property, or the acceptable period of use in service. Useful life of revenue rolling stock begins on the date the vehicle is placed in revenue service and continues until it is removed from service.

LEVEL II PREVIEW

FTA Compliance Reviews of States

FTA oversees program management activities conducted by state DOTs through several kinds of in-depth reviews. When conducting oversight reviews of states, FTA looks at how the state conducts oversight of its subrecipients to determine whether the oversight is adequate to ensure compliance with FTA requirements at the local level.

Module 1.7: Project Management and Grantee Oversight



FTA conducts periodic State Management Reviews (SMRs) of each state DOT to ensure that the state is carrying out its obligations as a primary grantee of FTA funding. The SMR is a comprehensive assessment of the state's compliance with FTA requirements in implementation and management of FTA programs. The SMR process includes a desk review, site review, compliance report, follow-up actions, and a follow-up review.

In addition to the comprehensive SMR, FTA conducts oversight reviews in specific areas as warranted for states that are at-risk or out of compliance. These include civil rights, financial management, and procurement reviews. State DOTs that also operate urban transit systems funded with S. 5307 or 5309, or have oversight of small urbanized transit systems funded under these programs, are also subject to FTA's Triennial Reviews, ADA Compliance Reviews, and other FTA reviews that are relevant to transit system management and operations.

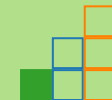
State Reviews of Subrecipient Compliance

States are responsible for ensuring that their subrecipients comply with FTA requirements associated with each grant or project. FTA requires grantees (including states) to maintain satisfactory continuing control of federally-funded real property, facilities, and equipment, and to ensure that they are used in transit service. In addition to requiring subrecipients to sign and submit annual certifications and assurances, states also need to monitor subrecipients and how they are using their FTA grant funds and FTA-funded equipment and facilities to ensure that the funds are being used as intended. Further, they need to enforce any requirements in which a subrecipient is found to be deficient.

Beyond the FTA-required annual certifications and assurances, each state determines the oversight activities it conducts on its subrecipients. This can range from informal observation and review to in-depth audits of compliance with federal (and state) requirements.

Oversight can be seen as an opportunity to educate and provide technical assistance to subrecipients, rather than simply policing their actions. States can develop the technical capacity of their subrecipients (and build positive state-to-subrecipient relationships) by providing training on requirements, encouraging subrecipients to ask questions, and offering hands-on assistance with achieving compliance.

Module 1.7: Project Management and Grantee Oversight



For capital projects used to purchase assets, state oversight of subrecipient use of the asset should continue until FTA no longer has a financial interest in the asset (i.e., until the asset exceeds its useful life in terms of years or, for vehicles, mileage).

Capital Project Management and Oversight

State DOTs must ensure the continuous management of FTA funded projects, whether the projects are conducted by the state or by its subrecipients. Management of capital projects requires technical knowledge. In conducting SMRs, FTA reviews the state's technical oversight of capital projects in the context of project management. Capital projects are defined by their scope, budget, and schedules, and effective project management involves executing these elements while maintaining acceptable levels of risk, quality, safety, and security.

In many cases, state DOTs contract out for facility construction or facility rehabilitation projects. They must provide technical oversight of the contractor, including regular meetings to review the project status. State project management and oversight may be done in house or by an outside architectural/engineering firm.

States must also provide technical oversight for procurements (e.g. when buying revenue rolling stock directly). When subrecipients buy buses directly, the state must monitor the procurement. States must also provide technical oversight of technology projects implemented by it or its subrecipients. A state's information technology (IT) department may oversee technology projects, sometimes with consultant support.

Module 1.8: Introduction to Procurement



INTRODUCTION

Procurement, also known as third party contracting, refers to the purchase of items or services. It involves the relationship between FTA, the funding recipient/grantee, and the party from which the grantee is buying something (the contractor or vendor).

FTA grantees (and sub-recipients) use their own procurement procedures that reflect applicable state and local laws and regulations, provided that the process ensures competitive procurement and the procedures conform to applicable federal law, including the Common Grant Rule. Both the dollar value and the nature of the items and services being purchased can affect applicability of specific federal procurement requirements.

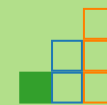
KEY CONCEPTS

- Cost Efficiency
- Full and Open Competition
- Ethics
- State Procurement Versus Oversight of Subrecipient Procurement
- Disadvantaged Business Enterprise (DBE)
- Buy America and Vehicle Procurement Requirements
- Federal Requirements that Come with the Contract

FTA procurement requirements are complex and designed to achieve many goals, including:

- Ensuring consistent and fair approaches to procurement by following written policies and procedures and a code of standards of conduct.
- Ensuring cost-efficient purchases.
- Ensuring full and open competition among potential vendors.
- Creating a “level playing field” for businesses owned by minorities and women (Disadvantaged Business Enterprises).
- Ensuring that vendors are fully qualified to deliver what is being purchased, and have not been banned from participating in federally-funded contracts (suspension and debarment).
- Ensuring that steel, iron, and manufactured products used in FTA funded projects are produced in the United States (Buy America).
- Ensuring that revenue rolling stock (i.e., vehicles) purchased also meet Federal Motor Vehicle Safety Standards, FTA bus testing requirements, and other purchaser requirements.
- Ensuring that all FTA-funded contracts include clauses that address all applicable FTA requirements.
- Maintaining a detailed paper trail that documents all steps in the process.

Module 1.8: Introduction to Procurement



IMPORTANCE FOR STATE DOT STAFF

States are responsible for establishing and following their own federally-compliant procurement policies and procedures for making their own purchases (or purchases on behalf of subrecipients). States must also monitor that subrecipients establish and follow their own federally-compliant procurement policies and procedures. FTA reserves the right to decline to participate in (i.e., deny funding for) the costs of third party procurements that fail to comply with federal laws, regulations, or the terms of the recipient's underlying grant or cooperative agreement.

DEFINITIONS

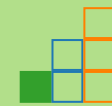
Common Grant Rule: U.S. DOT regulations that apply to all federal grants and cooperative agreements with governmental, non-governmental, and Indian tribal government recipients (49 CFR Parts 18 and 19, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments” and “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations”).

Full and Open Competition: all responsible sources are permitted to compete. In other words, the ability to compete for a contract award is not restricted, for example, to vendors with whom a relationship has been established, or to vendors within a limited geographic area.

Manufactured Product: an item produced as a result of the manufacturing process. Manufacturing process means the application of processes to alter the form or function of materials or of elements of the product in a manner adding value and transforming those materials or elements so that they represent a new end product functionally different from that which would result from mere assembly of the elements or materials.

Recipient: the public or private entity to which FTA awards federal assistance through a grant, cooperative agreement, or other agreement. The recipient is the entire legal entity even if only a particular component of the entity is designated in the document through which FTA has awarded the federal assistance. The term “recipient” includes “grantee,” which is a recipient of Federal grant assistance. The term “recipient” also includes each member of a consortium, joint venture, team, or partnership awarded FTA

Module 1.8: Introduction to Procurement



assistance through a grant, cooperative agreement, or other agreement. For the purposes of the FTA procurement requirements, “recipient” also includes any subrecipient or subgrantee of the recipient.

Rolling Stock: transit vehicles such as buses, vans, cars, railcars, locomotives, trolley cars, and ferry boats, as well as vehicles used for support services.

Third Party Contract: a recipient’s contract with a vendor or contractor, including procurement by purchase order or purchase by credit card, which is financed with federal assistance awarded by FTA.

LEVEL II PREVIEW

In Level II of this curriculum, there are four separate modules for procurement to cover the extensive federal requirements related to procurement.

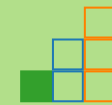
Cost Efficiency

Purchases made with FTA funding are expected to be cost-efficient and have a price consistent with the current market. This could be described as striving to get the most “bang for your buck.” To maximize cost efficiency, FTA requires that there be a “cost or price analysis with every procurement action.” This will be explained in more detail in the relevant sections of this module. In general terms, this means that before each time a state or subrecipient makes a decision to purchase something using FTA money, they need to do some sort of cost analysis or price comparison, and avoid choosing a product or service that would cost less from another vendor. To make best use of funds, it is also important to purchase from vendors who have the capability to deliver the goods or services they promise.

Full and Open Competition

States and subrecipients must provide qualified vendors fair opportunity to obtain contracted work through full and open competition. Depending on the dollar value of the contract or purchase, there are different levels of effort that must be made to ensure open competition and different ways of going about soliciting bids or proposals. Grantees must have written procurement policies and procedures indicating appropriate procurement methods depending on the project dollar amount and type of project. The

Module 1.8: Introduction to Procurement



federal requirements detail many elements that must be included in the written policies and procedures. An appeals process must be afforded to vendors who feel the competition was not open.

Under the federal requirements, the methodology for soliciting and evaluating offers for purchases valued at \$100,000 or more (based on Common Rule threshold for governmental recipients at the time this curriculum was drafted) must be rigorous. The most commonly used approaches include Sealed Bids (through an Invitation for Bids or IFB) or Competitive Proposals (through a Request for Proposals or RFP).

Ethics

States and subrecipients of FTA funds are expected to make purchases in an ethical manner. This means following the state's (or the subrecipient's) established procurement policies and procedures, and written standards of conduct. Vendors should be selected based on their ability to provide the items or services at a competitive price. In contrast, unethical approaches could include awarding a contract to a vendor simply because they are a friend or family member, or because the person making the award would stand to gain financially, or because the vendor has offered some sort of bribe. Further, recipients and subrecipients are responsible for ensuring that selected vendors have not been debarred or suspended from participating in Federal contracts (due to fraudulent behavior, for example).

State Procurement Versus Oversight of Subrecipient Procurement

There are two distinct perspectives of applicability of procurement requirements that state transit program staff should be aware of: 1) the state as the purchaser and 2) the state as the oversight agency for its subrecipients. The procurement requirements in this curriculum generally focus on the state as the oversight agency of the subrecipients, rather than the state's obligations in conducting its own procurement activities or in conducting oversight of its own contractors. Subrecipient requirements vary depending on if the subrecipient is a public or a private entity.

Federal laws and regulations affect the third party contractor providing the property or services, or even determine which entities may qualify as a third party contractor. Other laws and regulations affect the nature of the property or services to be acquired or the terms under which the property or services must be acquired. A recipient may not use FTA assistance to support acquisitions that do not comply with all applicable federal requirements. Appropriate procurement methods depend on the project dollar

Module 1.8: Introduction to Procurement



amount and type of project, including micro-purchases (\$3,000 or less), small purchases (>\$3,000 and <\$15,000), and purchases of \$100,000 or more (based on Common Rule threshold for governmental recipients at the time this curriculum was drafted). States and subrecipients must follow their procurement policies and procedures, and must keep records documenting this.

Disadvantaged Business Enterprise

States and their subrecipients must ensure nondiscrimination in the award and administration of DOT-assisted contracts. Specifically, recipients who award prime contracts exceeding \$250,000 in FTA funds in a fiscal year (excluding transit vehicle purchases) must have a Disadvantaged Business Enterprise (DBE) program. States and their subrecipients must create a level playing field on which DBEs can compete fairly for contracts; ensure that only firms that fully meet eligibility standards are permitted to participate as DBEs; help remove barriers to DBE participation; and assist the development of firms that can compete successfully in the marketplace outside the DBE program.

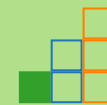
Buy America

Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA funded projects are produced in the United States. Waivers include microcomputer equipment and software and purchases under \$100,000. Grantees must also conduct pre-award and post-delivery audits of purchases of revenue rolling stock (vehicles) in order to verify that Buy America provisions, Federal Motor Vehicle Safety Standards, and purchaser's requirements are met. Finally, as part of each application to FTA for the purchase or lease of any new bus model, or any bus model with a major change in configuration or components, the recipient must certify that the bus was tested at the FTA bus testing facility.

Federal Requirements that Come with the Contract

Selected contractors are subject to many FTA requirements. Third-party contracts must include provisions for FTA requirements, and grantees are responsible for ensuring that their contractors and subcontractors comply with applicable requirements. FTA's Master Agreement contains a current, but not all-inclusive, description of statutory and regulatory requirements that may affect a recipient's procurement. The Master Agreement states that applicable federal requirements will apply to project participants to the lowest tier necessary to ensure compliance with those requirements. States are expected to provide a mechanism to all contractors and subrecipients for access to the Master Agreement. A recipient will also need to include applicable federal requirements in each subagreement, lease, third party contract, or other document as necessary.

Module 1.9: State and Metropolitan Planning



INTRODUCTION

Maintaining, enhancing, and planning for a multi-modal transportation system involves numerous actors at the state, regional, metropolitan, and local levels. As the actors have varied resources, responsibilities, and priorities for the system, the federal government (i.e. FTA and FHWA) has an interest in encouraging coordination and consistency among transportation planning efforts. State DOTs and their subrecipients can draw on federal formula funding for planning through S. 5303 (Metropolitan Transportation Planning), S. 5304 (Statewide and Nonmetropolitan Transportation Planning) and S. 5305 (Planning Programs- Metropolitan Planning and State Planning and Research). These programs come with requirements to help ensure that the planning process is continuing, cooperative, and comprehensive across all levels.

In urbanized areas, the transportation planning process is conducted by a Metropolitan Planning Organization (MPO), in cooperation with the state DOT and transit providers. In rural areas, transportation planning processes are carried out by the state, in cooperation with local officials in non-metropolitan areas and transit providers. FTA and FHWA jointly administer the federally required transportation planning processes in metropolitan areas.

This module presents general state and regional/metropolitan planning requirements that state transit staff should be familiar with. Locally-focused transit planning is addressed separately in the Local Planning module.

KEY CONCEPTS

- Introduction to FTA-Required State and Local Planning Activities and their Interrelationships
- MPO Planning
- Statewide and Nonmetropolitan Planning
- State and Regional Public Participation Methods
- State Program of Projects
- Transit Performance Evaluation

IMPORTANCE FOR STATE DOT STAFF

State DOTs must coordinate the statewide planning process with the planning activities of their MPOs, as well as with local officials and regional organizations responsible for transportation in non-metropolitan areas. Likewise, they must ensure that MPOs carry out the metropolitan planning process in coordination with the statewide process and with “due consideration of other related planning activities within the metropolitan area.”

Module 1.9: State and Metropolitan Planning



State DOTs are also responsible for statewide transit planning and for transit planning efforts in non-urbanized areas. As designated recipients of planning funding under S. 5303, 5304, and 5305, states must fulfill their planning responsibilities while simultaneously accounting for the activities and concerns of multiple interested parties.

DEFINITIONS

Fiscal Constraint: a demonstration of sufficient funds (federal, state, local, and private) to implement proposed transportation system improvements, as well as to operate and maintain the entire system.

Long-Range Statewide Transportation Plan: the State's official, statewide, multimodal transportation plan covering a period of no less than 20 years, developed through the statewide transportation planning process.

Metropolitan Planning Program (MPP): the federal financial assistance provided by FTA, under S. 5305, to support work activities necessary to conduct the federally required metropolitan transportation planning process.

Metropolitan Planning Organization (MPO): a federally designated organization charged with carrying out the transportation planning process for an urbanized area with a population of 50,000 or more.

Metropolitan Transportation Plan (MTP): the official multimodal transportation plan addressing no less than a 20-year planning horizon that is developed, adopted, and updated by the MPO.

State Planning and Research Program (SPRP): the federal financial assistance provided by FTA under S. 5305 to support work activities necessary to conduct the federally required statewide transportation planning.

Statewide Transportation Improvement Program (STIP): a statewide prioritized program of federally-funded transportation projects covering a period of four years that is consistent with the Long-Range Statewide Transportation Plan, MTPs, and Transportation Improvement Programs (TIPs), and required for projects to be eligible for funding.

Module 1.9: State and Metropolitan Planning



Transportation Improvement Program (TIP): a prioritized listing/program of transportation projects covering a period of at least four years that is developed and formally adopted by an MPO as part of the metropolitan transportation planning process, consistent with the MTP, and required for projects to be eligible for funding.

Unified Planning Work Program (UPWP): a program of work produced by an MPO that identifies the planning priorities and activities to be carried out during the next one to two years.

LEVEL II PREVIEW

Introduction to FTA-Required State and Local Planning Activities and their Interrelationships

As a condition of receiving federal funds, state DOTs and their subrecipients must conduct a continuing, comprehensive, and coordinated multi-modal transportation planning process in metropolitan areas and statewide (“3-C” for short). The development of long-range plans and short-range programs of transportation investment priorities is a large part of the planning process. Under S. 5304, each state must develop a long-range statewide transportation plan (LRSTP) and a fiscally-constrained statewide transportation improvement program (STIP). Under S. 5303, each MPO must develop a fiscally-constrained metropolitan transportation plan (MTP) and a transportation improvement program (TIP).

MPO Planning

MPOs are federally designated organizations required in every urbanized area with a population of 50,000 or more. MPOs are intended to be forums for transportation decision making and investment, both for transit and other modes. Key functions include:

- Preparing a long-range transportation plan (LRTP), aka metropolitan transportation plan (MTP), aka constrained long-range transportation plan (CLRTP/CLRP)
- Preparing a complementary short-term transportation improvement program (TIP)
- Preparing a unified planning work program (UPWP)
- Preparing and carrying out a public participation plan

Module 1.9: State and Metropolitan Planning



Statewide and Nonmetropolitan Planning

States are the designated recipients and only entities eligible to apply for and receive S. 5305 funds directly from FTA. State DOTs can use these funds to carry out statewide transportation planning and to develop the LRSTP and the STIP, documents comparable to the LRTP and the TIP at the metropolitan level. Only projects in an approved STIP (and TIP) are eligible for federal funding. Key state DOT planning functions include:

- Preparing a long-range statewide transportation plan (LRSTP)
- Preparing a statewide transportation improvement program (STIP)
- Preparing and carrying out a public participation plan

State and Regional Public Participation Methods

The state and MPOs have responsibilities regarding public participation while carrying out statewide and metropolitan planning. Both must document and use a public involvement plan that details strategies for engaging the public and responding to input. An example of participation includes providing the public with reasonable opportunities to review and comment on proposed plans.

State Program of Projects

Each state develops a Program of Projects (POP) as part of its annual application to FTA. Projects within the POP must be consistent with the STIP as well as the TIP for metropolitan areas in which proposed projects are located. The state develops its annual POP based on the subrecipient grant applications and locally developed public transit-human services transportation plans. For more information on state POPs, see the FTA Grant Administration module.

Transit Performance Evaluation

MAP-21 legislation places new emphasis on “a performance-driven, outcome-based approach” to both metropolitan and statewide planning, as described in S. 5303 and 5304. States and MPOs must establish performance targets to use in tracking progress towards the attainment of critical outcomes. However, U.S. DOT has yet to establish the performance measures.

Module 1.10: Local Planning



INTRODUCTION

State transit staff should be familiar with a broad range of planning requirements and concepts, specifically those that pertain to subrecipients. Some of FTA's planning requirements are embedded in topic areas (such as ADA and Title VI) and discussed in other modules of this curriculum. Many planning requirements have a public involvement component; these are summarized in the Public Participation module. Projects selected for funding under the S. 5310 program are subject to coordination planning requirements; the projects must be included in a locally developed, coordinated public transit-human services transportation plan. States and metropolitan areas have statewide and regional planning requirements that are addressed in the State and Metropolitan Planning module. Intelligent Transportation Systems (ITS) projects are also subject to special planning requirements that are described in this module.

IMPORTANCE FOR STATE DOT STAFF

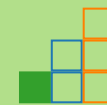
FTA recipients have numerous planning requirements. States are responsible for ensuring that projects selected for S. 5310 funding are included in a locally developed, coordinated public transit-human services transportation plan. State transit staff should be familiar with basic transit service planning and evaluation concepts, to enable them to provide guidance to their subrecipients in planning local services, as well as to evaluate subrecipient services and systems using any state-established performance standards.

KEY CONCEPTS

- Subrecipient Applications/Local POPs
- Relationship of Local Application/Local POP to STIP/TIP
- Specialized Transportation Coordination
- Transit Services Planning
- Transit Performance Evaluation
- City/County/Regional Planning
- Land Use Planning
- Planning Requirements for ITS Projects

State transit staff should be aware of local planning activities, such as county and land use plans, and encourage their subrecipients to be engaged in these activities. States are responsible for ensuring that FTA-funded ITS projects conform to the National ITS Architecture, as well as to U.S. DOT-adopted ITS Standards, and that they are part of a locally approved Regional ITS Architecture.

Module 1.10: Local Planning



DEFINITIONS

Metropolitan Planning Organization (MPO): a federally designated organization charged with carrying out the transportation planning process for an urbanized area with a population of 50,000 or more.

Program of Projects (POP): A list of projects to be funded in a grant application submitted to FTA by a state or designated recipient. The POP lists the subrecipients and indicates what type of organization they are, a brief description of each project, total project cost, and federal share for each project.

Statewide Transportation Improvement Program (STIP): a statewide prioritized program of federally-funded transportation projects covering a period of four years that is consistent with the Long-Range Statewide Transportation Plan, Metropolitan Transportation Plans, and Transportation Improvement Programs, and required for projects to be eligible for funding.

Transportation Improvement Program (TIP): A prioritized listing/program of transportation projects covering a period of at least four years that is developed and formally adopted by an MPO as part of the metropolitan transportation planning process, consistent with the Metropolitan Transportation Plan, and required for projects to be eligible for funding

LEVEL II PREVIEW

Subrecipient Applications/Local POPs

As noted in the State and Metropolitan Planning module, the state develops its annual POP based on subrecipient grant applications (as well as the locally developed public transit-human services transportation plans). As part of the grant application, states generally require subrecipients to apply for funding for specific projects—essentially to develop a local POP. Section 5307 recipients (including direct small urban recipients) are required to develop their own POP. The development of the POP must meet FTA public participation requirements.

Module 1.10: Local Planning



Relationship of Local Application/Local POP to STIP/TIP

At least every four years, each state submits a STIP for federal transportation funds. As is the case with the state's POP, to be eligible for FTA funding, local POPs/project applications must be included in the STIP. If the local POPs/project applications are within a metropolitan area, they must also be included in the MPO's TIP.

Specialized Transportation Coordination

Under SAFETEA-LU, funding through S. 5310, 5316, and 5317 required that projects be derived from a locally developed, coordinated public transit-human services transportation plan. This coordinated planning requirement was designed to be a participatory process including public, private, and human service transportation providers. Under MAP-21, this requirement continues to apply to S. 5310. States must ensure that their subrecipients are involved in the coordinated planning process. Importantly, the coordinated public transit-human services plan must reflect metropolitan and statewide plans, and vice versa.

Transit Services Planning

Transit service planning by individual transit providers often occurs as a result of state DOT requirements. With input from a board of directors and/or a transportation advisory committee, local systems or regional entities develop specific short-term transit plans, sometimes referred to as transportation development plans (TDPs). The TDP process may include a review of system goals and objectives, documentation of existing services and performance, assessment of unmet needs and other issues, recommendations for service alternatives and improvements, an implementation timeline, and a financial and capital plan.

Local transit services planning is important from the perspective of the state because it provides a basis from which to project funding needs, not only in terms of paying for transit operations, but also paying for vehicles and facilities.

Transit Performance Evaluation

As noted in the State and Metropolitan Planning module, MAP-21 legislation requires that states and MPOs establish performance targets to use in tracking progress towards the attainment of critical outcomes, based on performance measures to be established

Module 1.10: Local Planning



by U.S. DOT. While not an FTA requirement at this point, many states have established standard performance measures for their subrecipients (e.g. passenger trips per hour, operating cost per passenger trip, farebox recovery ratio, etc.).

City/County/Regional Planning

Planning at the city and county level involves local elected officials and local government staff. These actors conduct land use and transportation planning activities parallel to state and metropolitan planning processes. Though the plans are primarily jurisdiction-specific, they serve as important reference points for MPOs and states. States may also establish a regional planning structure to fulfill planning functions in nonmetropolitan areas, for example through regional planning organizations or planning district commissions.

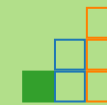
Land Use Planning

Transportation and land use are closely linked: development influences regional travel patterns, while the transportation system influences new development and land use. The metropolitan and statewide transportation planning process should account for this reciprocal relationship, considering current and projected population growth, future residential and commercial development, employment trends, and economic activity.

Planning Requirements for ITS Projects

Intelligent Transportation Systems (ITS) projects are subject to special planning requirements. ITS refers to “the integrated application of advanced computer, electronics, and communications technologies to increase the safety and efficiency of surface transportation.” Transit communication technology interface is an example of an ITS project. ITS projects funded by FTA must conform to the National ITS Architecture, as well as to U.S. DOT-adopted ITS Standards. ITS projects and programs are also required to be a part of a locally approved Regional ITS Architecture.

Module 1.11: Public Participation



INTRODUCTION

FTA grantees are subject to various public participation requirements.

Each applicant for a S. 5307 grant must publish and afford an opportunity for a public hearing on its Program of Projects (POP). Section 5307 projects must also be included in applicable metropolitan area plans, which can help meet the POP public notice requirements. Section 5307 grantees are expected to have a written locally developed process for soliciting and considering public comment before raising a fare or carrying out a major transportation service reduction.

Section 5310 and 5311 projects must be included in the Statewide Transportation Improvement Program (STIP), as well as certain metropolitan area plans that involve public input. Projects funded under S. 5310 must also be derived from a locally-developed coordinated public transit-human service transportation plan, developed with public participation.

For all grantees, the content and considerations of Title VI, the Executive Order on Limited English Proficiency (LEP), and the DOT LEP Guidance must be integrated into each recipient's established public participation plan or process. FTA grant applicants are also required to provide an adequate opportunity for public review and comment on capital projects, and, after providing notice, to hold a public hearing on the projects if they affect significant economic, social, or environmental interests.

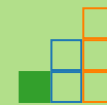
KEY CONCEPTS

- Program of Projects Public Participation Requirements
- Public Participation in the Coordinated Public Transit-Human Services Transportation Planning Process
- Public Comment on Fare and Service Changes
- Title VI Public Participation Requirements
- Public Review and Comment for Capital Projects (Environmental Planning)

IMPORTANCE FOR STATE DOT STAFF

State DOTs are responsible for ensuring that the state and its subrecipients involve the public in a meaningful way as decisions are made on transit programs, services, and fares. States (and their Metropolitan Planning Organizations) have responsibilities regarding public participation while carrying out statewide and metropolitan planning processes. States must document and use a public involvement plan that details strategies for engaging the public and responding to input.

Module 1.11: Public Participation



LEVEL II PREVIEW

Program of Projects (POP) Public Participation Requirements

Section 5307 and Other Applications for Projects in Urbanized Areas

Both federal planning regulations and S. 5307 require public participation for the POP in a S. 5307 application. The metropolitan transportation planning process must include a proactive participation plan that provides complete information, timely public notice, reasonable public access to key decisions, and early and continuing involvement of the public in developing plans and Transportation Improvement Programs (TIPs). FTA-funded projects within a metropolitan area must be programmed in the TIP to be eligible for funding.

S. 5307 grantees have specific requirements for public participation related to the POP. In certain circumstances, FTA allows a grantee to rely on the locally adopted public participation requirements for the TIP in lieu of the process required in the development of the POP. A grantee may also rely on its own process to satisfy POP public participation requirements.

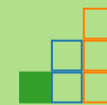
Section 5310

To be eligible for funding, S. 5310 projects in urbanized areas must be included in the Metropolitan Transportation Plan prepared and approved by the MPO, the TIP approved jointly by the MPO and the governor, and the Statewide Transportation Improvement Program (STIP) developed by a state and jointly approved by FTA and the Federal Highway Administration (FHWA). Projects outside urbanized areas must be included in, or be consistent with, the Statewide Long-Range Transportation Plan, as developed by the state, and must be included in the STIP.

Section 5311

A state requesting S. 5311 assistance must comply with the planning requirements of 49 USC 5303 through 5305. Projects proposed for S. 5311 funding must be a product of the statewide and non-metropolitan transportation planning process and/or the

Module 1.11: Public Participation



metropolitan planning process. States must include S. 5311 funds in the STIP. FTA does not require public participation for individual S. 5311 subrecipient operating grant applications, but some states require similar public notice as is required for S. 5307 POPs.

Public Participation in the Coordinated Public Transit-Human Services Transportation Planning Process

States certify that locally developed, coordinated public transit-human services transportation plans (from which S. 5310 projects must be derived—see the Planning module for more information) are developed through a process that included representatives of public, private, and non-profit transportation and human services providers, and participation by members of the public. Stakeholders should have reasonable opportunities to be actively involved in the decision-making process at key decision points, including, but not limited to, development of the proposed coordinated plan document.

Public Comment on Fare and Service Changes (S. 5307 only)

Annually, S. 5307 grantees certify that they have a locally developed process to solicit and consider public comment prior to raising a fare or implementing a major reduction in public transportation service. Grantees are expected to have a written policy that describes the public comment process, and the policy should provide an opportunity for a public hearing or meeting. States must ensure compliance from their S. 5307 subrecipients. Although FTA only requires this public comment process for S. 5307 recipients, some states apply this requirement to S. 5311 subrecipients as well.

Title VI Public Participation Requirements

The content and considerations of Title VI, the Executive Order on LEP, and the DOT LEP Guidance must be integrated into each recipient's established public participation plan or process. Grantees have wide latitude to determine how, when, and how often specific public participation activities should take place, and which specific measures are most appropriate. Grantees should make these determinations based on a demographic analysis of the population(s) affected, the type of plan, program, and/or service under consideration, and the resources available.

The state is responsible for ensuring that subrecipients comply with Title VI requirements. Additional requirements are detailed in the Title VI module.

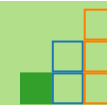
Module 1.11: Public Participation



Public Review and Comment for Capital Projects (Environmental Planning)

Any application for a capital project that will “substantially affect a community or the public transportation service of a community” must include a certification to the effect that the applicant has provided an adequate opportunity for public review and comment; held a public hearing on the project; considered the economic, social, and environmental effects of the project; and found that the project is consistent with official plans for developing the community. These requirements are also satisfied through compliance with the National Environmental Policy Act (NEPA). NEPA requirements include a public scoping process, public review and comment on NEPA documents, and a public hearing on every draft environmental impact statement (EIS).

Module 1.12: Asset Management



INTRODUCTION

States (and their subrecipients) must maintain control over real property, facilities, and equipment and ensure that they are used in transit service. States (and their subrecipients) must keep federally funded equipment and facilities in good operating condition.

MAP-21 establishes new requirements for transit asset management as well as new reporting requirements. FTA grantees will be required to develop transit asset management plans, establish targets for related performance measures, and submit reports. The MAP-21 FTA asset management compliance requirements related to planning and reporting have not yet been determined.

Asset management requirements are intended to ensure that FTA-funded assets are:

- used appropriately,
- under the control of the grantee,
- adequately maintained,
- replaced at the appropriate time, and
- adequately documented.

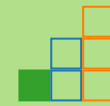
KEY CONCEPTS

- Real Property
- Equipment
- Maintenance
- Transit Asset Management Planning and Reporting Requirements Established by MAP-21

IMPORTANCE FOR STATE DOT STAFF

States are responsible for monitoring the use of FTA-funded real property, facilities, and equipment. Assets that are not maintained in a state of good repair present potential risks, including safety, service unavailability, and high maintenance and repair costs. Systematically planning for asset replacement enables subrecipients and the state to proactively plan for funding capital replacements so as to be better able to maintain a systemwide state of good repair.

Module 1.12: Asset Management



DEFINITIONS

Asset: equipment, rolling stock, infrastructure, and facilities for use in public transportation; owned or leased by a recipient or subrecipient of FTA financial assistance.

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

Facilities: all or any portion of a building or structure including roads, walks, and parking lots.

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

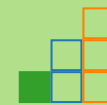
Real Property: land, including affixed land improvements, structures, and appurtenances. It does not include movable machinery and equipment.

Transit Asset Management Plan: a plan developed by a recipient of FTA funding that includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; the recipient certifies compliance with the rule issued under 49 USC Section 5326. A transit asset management plan allows for the estimation of capital investment needs over time.

Transit Asset Management System: a strategic and systematic process of operating, maintaining, and improving public transportation capital assets effectively throughout the life cycle of such assets.

Useful Life: the expected lifetime of project property, or the acceptable period of use in service. Useful life of revenue rolling stock begins on the date the vehicle is placed in revenue service and continues until it is removed from service.

Module 1.12: Asset Management



LEVEL II PREVIEW

Preventive Maintenance

States are responsible for ensuring that subrecipients maintain FTA-funded vehicles, facilities, and facility related equipment in good operating order. Each state is required to develop maintenance requirements for FTA-funded vehicles to protect the federal interest and ensure that the equipment is maintained in good operating order. States or their subrecipients are also required to develop written maintenance plans for FTA-funded facilities and facility-related equipment.

State of Good Repair

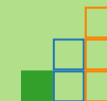
Generally speaking, the expression “state of good repair” refers to good, functional condition when describing a transit asset. MAP-21 established a new State of Good Repair program dedicated to repairing and upgrading the nation’s rail transit systems along with high-intensity motor bus systems that use high occupancy vehicle lanes, including bus rapid transit (BRT). MAP-21 also requires FTA to define the term “state of good repair” to include “objective standards for measuring the condition of capital assets of recipients, including equipment, rolling stock, infrastructure, and facilities.”

Transit Asset Management

Prior to MAP-21, the FTA State Management Review workbook used the term “asset management” to refer to how a grantee manages how its assets are used and maintained, and at what point they become eligible for FTA replacement funding. With MAP-21, FTA has also begun to use “transit asset management” to describe a holistic approach to having a handle on what assets a grantee owns, what condition they are in, how well they are working, and when they should ideally be replaced.

Transit asset management planning can be described as a strategic and systematic approach to managing transit physical assets. It focuses on business and engineering processes for resource allocation and utilization, with the objective of better decision making based upon quality information and well-defined objectives. Transit asset management is a way of being proactive in managing how and when to spend capital resources, rather than reactive in waiting until things are at a crisis stage. Transit asset management planning can be conducted at different levels of complexity/maturity.

Module 1.12: Asset Management



Satisfactory Continuing Control

Continuing control refers to a grantee's control over the use of an FTA-funded asset. FTA requires that grantees maintain "satisfactory continuing control" over FTA-funded vehicles, facilities, etc. even if they are being used (e.g., through a lease agreement) by another organization. States and subrecipients are responsible for maintaining control over their FTA-funded assets, and states are responsible for ensuring that this control is maintained, through various monitoring activities.

Useful Life

With the exception of land, each asset has a life expectancy (often referred to as "useful life" or "service life") in years and sometimes in usage units (such as vehicle miles). An asset that has reached the end of its useful life is essentially worn out, and must be replaced or at least overhauled/refurbished. To reach their full useful life expectancy, assets and their components generally require both preventive maintenance and corrective maintenance.

As an asset ages, even with a good preventive maintenance program in place, it is likely to need an increasing amount of corrective maintenance, simply because older components wear out. Therefore older assets likely to cost more money to keep in operating condition (i.e. a state of good repair) than younger assets. At some point, it becomes more cost-effective to replace the asset rather than continuing to repair it. An asset that has not yet reached its useful life has what is referred to as residual life, or the number of years or service units remaining until the end of its useful life.

Module 1.13: Safety and Security



INTRODUCTION

Section 5329 of MAP-21 requires that all recipients of FTA funding develop an agency safety plan and certify that the plan meets FTA requirements. Within one year after FTA issues a final rule on this requirement, each state or recipient of S. 5307 or S. 5311 funds must develop, implement, and certify a public transit agency safety plan. FTA has published an Advanced Notice of Proposed Rulemaking regarding aspects of the Section 5329 safety and asset management requirements to solicit public comment prior to developing this rule.

In the interim before the FTA final rule is issued, FTA encourages transit providers to begin implementing the statutory requirements of the transit agency safety plan. States are advised to begin to assist, and/or require their subrecipients to prepare agency safety plans that include the general areas required under MAP-21. Existing voluntary FTA safety and security planning guidance is available.

Section 5307 grantees must annually certify that they are spending at least one percent of such funds for transit security projects, or that such expenditures for security systems are not necessary.

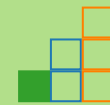
KEY CONCEPTS

- Public Transit Agency Safety Plans
- State Safety Oversight
- Public Transportation Safety Certification Training Program
- Funding for Employee Safety Training
- Currently Available FTA Guidance
- One Percent of S. 5307 Funds on Security Projects
- Safety-Related Elements in Other FTA Requirements

IMPORTANCE FOR STATE DOT STAFF

States may have oversight responsibility of subrecipient agency safety plans once the final rule for 49 CFR 5329 is established. FTA has not yet determined these responsibilities. In the interim, state staff should stay abreast of FTA development of regulations and follow your state's current policies and procedures related to subrecipient safety and security requirements.

Module 1.13: Safety and Security



LEVEL II PREVIEW

49 USC 5329 provides FTA with the authority to establish a new comprehensive framework to oversee the safety of public transportation throughout the United States. The law requires, among other things, that DOT issue a national public transportation safety plan, establish safety performance criteria for all modes of public transportation, define a “state of good repair,” establish minimum safety performance standards for public transportation vehicles, and develop a safety certification training program. In addition, public transportation agencies must establish comprehensive agency safety plans for their operations.

National Public Transportation Safety Plan

49 USC 5329 requires FTA to create and implement a national public transportation plan to improve the safety of all public transportation systems that receive FTA financial assistance. The national safety plan will be applicable to each FTA recipient and include: (1) safety performance criteria; (2) the definition of state of good repair; (3) a safety certification training program; and (4) vehicle performance standards. Once the criteria and standards are established, transit systems will be required to set targets based on the measures, reflecting the yet-to-be-determined definition of state of good repair. These targets will be part of the transit agency safety plan (described below) and incorporated into the metropolitan and statewide planning processes.

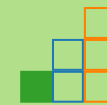
Public Transit Agency Safety Plans

Within one year after FTA issues a final rule on the requirement to develop an agency safety plan and certify that the plan meets FTA requirements, each state or recipient of S. 5307 or S. 5311 funds must develop, implement, and certify an agency safety plan.

State Safety Oversight

While MAP-21 established that subrecipients of S. 5311 as well as small transit providers funded by S. 5307 may have their plans drafted or certified by their state, FTA has not yet defined “small transit providers” and determined what the responsibilities of the states will be in the plan development and certification process. MAP-21 also established the requirement for an FTA State Safety Oversight (SSO) Program specifically for oversight of rail systems. Each state with rail systems not regulated by the Federal Railroad Administration (FRA) is subject to the yet-to-be developed FTA requirements for SSO programs.

Module 1.13: Safety and Security



Safety Certification Training Program

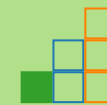
Part of 49 USC 5329 requires FTA to establish a Public Transportation Safety Certification Training Program applicable to federal and state employees, contractors who conduct oversight, and those employees at transit systems who are responsible for safety oversight. Recipients of S. 5307 or S. 5311 funds may use up to 0.5 percent of apportioned formula funds to pay for up to 80 percent of the costs of an applicable transit agency employee's participation in the Safety Certification Training Program.

Currently Available FTA Guidance

Until new FTA safety requirements are established, states can follow the recommendations of existing FTA guidance, including the April 2003 Model Bus Safety and Security Program Memorandum of Understanding and FTA's Transit Bus Safety Program website.

Many states have established their own requirements for subrecipients based on FTA guidance. Some states require each subrecipient to prepare its own Safety, Security, and Emergency Preparedness Plan (SSEPP) or System Safety Program Plan (SSPP). For information about your state's safety- and security-related requirements for subrecipients, consult your state's SMP, grant application packages, and other guidance provided to subrecipients.

Module 1.14: Equal Employment Opportunity (EEO)



INTRODUCTION

State DOTs must ensure that their subrecipients do not discriminate against any employees or applicants for employment because of race, color, religion, national origin, sex, or age. In addition, recipients and subrecipients must take affirmative actions to employ minorities and women.

As stated in 49 USC 5332(b), “no person in the United States shall on the grounds of race, color, religion, national origin, sex, or age be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any project, program or activity funded in whole or in part through financial assistance under this Act.”

IMPORTANCE FOR STATE DOT STAFF

States are responsible for oversight of subrecipient compliance with Equal Employment Opportunity (EEO) requirements.

KEY CONCEPTS

- Threshold for subrecipients
 - Oversight of applicable subrecipients
 - EEO Officer designation
 - utilization analysis
 - narrative and statistical assessment of employment practices
 - monitoring and reporting system
-
- States should educate subrecipients on the FTA EEO requirements and be able to answer questions on what a subrecipient needs to do to comply with these requirements.
 - States must include EEO in the certifications and assurances in the subrecipient grant application package, as well as in the grant agreement.
 - States must monitor subrecipient funding levels and organizational size to determine which subrecipients meet the threshold for an EEO program, and should document this monitoring.
 - For subrecipients that cross the threshold in the previous funding year, states must obtain an EEO program that meets FTA

Module 1.14: Equal Employment Opportunity (EEO)



requirements (i.e. review and evaluate for compliance), upload the plan into TEAM, and obtain an updated plan at least every three years.

- States should include review of the subrecipient's EEO program as part of the site and other compliance reviews it conducts. This includes review of documentation that demonstrates that the subrecipient is following its EEO program.
- States should monitor the status of any EEO-related complaint reported by a subrecipient.

DEFINITIONS

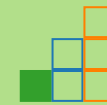
Affirmative Action Plan: a written, detailed, results-oriented set of procedures designed to achieve prompt and full utilization of minorities and women at all levels in all parts of the recipient's work force.

Concentration: a higher representation of minorities and/or women in a job category or department as compared to their representation in the labor market.

Transit related employee: an employee of an FTA applicant, recipient, or subrecipient who is involved in an aspect of an agency's mass transit operation funded by FTA.

Underutilization: a lower representation of minorities and/or women in a job category or department as compared to their representation in the labor market.

Module 1.14: Equal Employment Opportunity (EEO)



LEVEL II PREVIEW

Federal Threshold Requirements

An EEO program is required of all subrecipients that both:

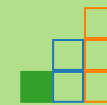
- 1) employ 50 or more transit-related employees (including temporary, full, and part-time), and
- 2) received capital or operating assistance in excess of \$1 million or planning assistance in excess of \$250,000 in the previous federal fiscal year.

EEO Program Components

Those subrecipients meeting the above threshold must develop, implement, and monitor an effective EEO program. Updates are required every three years and must be uploaded to TEAM. States upload the programs submitted by subrecipients into TEAM. The program has seven required components.

1. **Statement of Policy.** The EEO program must include a statement issued by the CEO detailing the agency's commitment to EEO and to undertaking an affirmative action plan. The statement must be placed in conspicuous locations, making employees and applicants aware of the EEO commitment.
2. **Dissemination.** Recipients must have formal mechanisms to publicize and disseminate the EEO policy to applicants, employees, and the general public.
3. **Designation of Personnel Responsibility.** An EEO program officer/manager has primary responsibility for administering and implementing the EEO program and should be identified in all program submissions.
4. **Utilization Analysis.** The utilization analysis identifies job categories where an underutilization and/or concentration of women or minorities exists in relation to their availability in the labor market. It also establishes goals, timetables, and other affirmative actions to correct employment practices that contributed to any underutilization or concentration.

Module 1.14: Equal Employment Opportunity (EEO)



5. **Goals and Timetables.** Recipients must set specific percentage and numerical goals with timetables to eliminate any gaps (i.e. underutilization) identified in the analysis.
6. **Assessment of Employment Practices.** Recipients must conduct an assessment of present employment practices to identify those that may be barriers contributing to underutilization.
7. **Monitoring and Reporting.** The EEO program should include a monitoring and reporting system that assesses accomplishments, evaluates the program, and prompts corrective actions.

Sub-Recipient Oversight

The state is responsible for ensuring that its subrecipients are in compliance—it must have an approved affirmative action plan on file for all subrecipients that meet the threshold requirements. The state must document its review of the plans for adequacy in terms of the seven components.

Notes on Differing State Program Approaches

Some states require an EEO program of subrecipients that do not meet the minimum thresholds, or they may require a subset of the program elements of all subrecipients with the full gamut of FTA-required elements only for those subrecipients that meet minimum thresholds. State transit staff need to be familiar with what their specific state requires, and should also be familiar with the FTA requirements and where they differ.

Oversight of subrecipient EEO programs may be a responsibility of a different office or division within your department than other areas of FTA program oversight. For example, this responsibility may be located within that state DOT office of civil rights, fair practices, or the like. This office may oversee all EEO requirements for the state, including those required by FHWA and other administrations within U.S. DOT. State transit program staff need to know which office is responsible for EEO oversight.

Module 1.15: Labor Protection/Special Warranty



INTRODUCTION

All recipients (and subrecipients) of FTA funding must comply with labor standards detailed in 49 USC 5333. The labor standards involve two parts: prevailing wages and employee protective arrangements. The latter involves the bulk of the requirements.

When federal funds are used to acquire, improve, or operate a transit system, federal law requires arrangements to protect the rights of affected transit employees. The terms and conditions of the protective arrangements are included in the grantee's contract with the FTA. The requirement to protect transit employees is contained in 49 USC 5333(b) (formerly Section 13(c) of the Federal Transit Act). Projects funded under S. 5311 must satisfy the employee protection requirements of Section 5333(b), but this is accomplished through an expedited procedure administered by the Department of Labor (DOL) and based on the application of the "Special Section 13(c) Warranty."

IMPORTANCE FOR STATE DOT STAFF

Federal law requires the protection of the rights and interests of transit employees who are impacted by projected FTA funding. Before FTA may award a grant for capital or operating assistance, fair and equitable arrangements must be in place for transit employees.

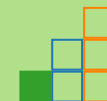
KEY CONCEPTS

- Prevailing Wage Requirement
- Employee Protective Arrangements
 - DOL Certification
 - National (Model) Agreement
 - Special Warranty for Rural Areas
 - Special Warranty Notice to Employees

As a recipient of FTA funds, the state must ensure that it and its subrecipients comply with labor standards and protect their employees.

DOL is responsible for compliance oversight on these requirements. If DOL finds that a S. 5311 applicant does not fulfill the procedures and requirements of the Special Warranty, the applicant would be ineligible for federal funds until the non-compliance issue is resolved.

Module 1.15: Labor Protection/Special Warranty



To ensure subrecipient compliance:

- States should educate subrecipients on the labor standards and on their responsibilities to both DOT and DOL.
- States must require Special Warranty certification and submission of DOL-required information as part of S. 5311 subrecipient applications.
- States must include the terms and conditions of the protective arrangement in subrecipient grant agreements.

DEFINITIONS

Davis-Bacon Act: enacted in 1931, the Act (as amended) requires paying local prevailing wages on public works projects, including construction projects funded by FTA valued at \$2,000 or more.

National (Model) Agreement: a protective agreement entered into in July 1975 by representatives of the American Public Transit Association, Amalgamated Transit Union, Transport Workers Union of America, AFL-CIO, Railway Labor Executives' Association, Brotherhood of Locomotive Engineers, Brotherhood of Railway and Airline Clerks, and International Association of Machinists and Aerospace Workers. The Agreement is certified by DOL as fair and equitable and is thus a source document for the standard terms and conditions of employee protective arrangements.

Special Warranty: formalized by DOL and DOT in May 1979, the Special Warranty is the protective arrangement applicable to the S. 5311 program. It provides fair and equitable arrangements to protect the interests of employees and meets the requirements of 49 USC 5333(b).

Module 1.15: Labor Protection/Special Warranty



LEVEL II PREVIEW

Prevailing Wage Requirement

Prevailing wages mean that for construction projects only, laborer and mechanic contractors and subcontractors must “be paid wages not less than those prevailing on similar construction in the locality...” Prevailing wages are determined by the Secretary of the DOL in accordance with 40 USC Chapter 31, also known as the Davis-Bacon Act.

Employee Protective Arrangements

FTA funding is conditioned on employee protective arrangements. Employee protective arrangements cover employees involved in projects funded under S. 5307, 5308, 5309, 5312, 5316, 5337, and 5339. DOL must certify the protective arrangements prior to FTA award of funding. DOL certification verifies that the terms and conditions of the arrangement are fair and equitable, following the DOL’s “Guidelines, Section 5333(b), Federal Transit Law” (29 CFR 215).

The arrangements must include provisions regarding the following:

- the preservation of rights, privileges, and benefits under existing collective bargaining agreements,
- the continuation of collective bargaining rights,
- the protection of individual employees against a worsening of their positions related to employment,
- assurances of employment to employees of acquired public transportation systems,
- assurances of priority of reemployment, and
- paid training or retraining programs.

Unified Protective Arrangement

For employees of urbanized FTA applicants who do not already have a protective arrangement (i.e., a labor union) in place, DOL draws on a document called the Unified Protective Arrangement. This document sets forth terms and conditions the FTA recipient must comply with for the protection of the transportation related employees in the transportation service area of the project.

Module 1.15: Labor Protection/Special Warranty



National (Model) Agreement

Employee protections can be developed through local negotiations between transit providers and employees/labor organizations. However, parties can also adopt the National (Model) Agreement as a ready-made employee protective arrangement. The National (Model) Agreement was executed in 1975 by representatives of the American Public Transportation Association, the Amalgamated Transit Union, the Transport Workers Union of America, and multiple other labor organizations. It provides fair and equitable arrangements to protect the interests of employees in general purpose operating assistance project situations and meets the requirements of 49 USC 5333(b).

Special Warranty for Rural Areas

Projects in rural areas funded through S. 5311 have different employee protective arrangement requirements: DOL's Special Warranty, originally known as the Special 13(c) Warranty. The Special Warranty allows for an expedited procedure administered by DOL, protecting the labor rights of employees without the necessity for DOL review of each individual subrecipient's application. Instead, DOL reviews the state's Section 5333(b) submittals for its S. 5311 application.

DOL procedures under the Warranty require that state agencies applying for S. 5311 funds must take certain steps to demonstrate that the terms of the Warranty are understood and agreed to by the recipients of funds. Additionally, the Warranty requires that recipients (and subrecipients) post, in a prominent and accessible place, the terms and conditions of the Warranty with a notice stating that the recipient has agreed to comply with these terms.

Employees who believe they have been affected as a result of federal transit assistance may file claims with DOL under the Warranty. This means that the state (and its subrecipients) must make the necessary arrangements so that covered employees (or their union representative) may file such a claim.

Module 1.16: Drug and Alcohol Testing and Drug-Free Workplace Act Programs



INTRODUCTION

Recipients of S. 5307, 5309, or 5311 funds must have a drug and alcohol testing program in place for all safety-sensitive employees.

Grantees that receive an award directly from a federal agency are required to maintain a drug-free workplace for all employees and to have an ongoing drug-free awareness program. The drug-free workplace and awareness requirements do not apply to subrecipients but do apply to the state DOT as an employer.

IMPORTANCE FOR STATE DOT STAFF

States are responsible for passing through drug and alcohol testing requirements; providing technical assistance in understanding and meeting the requirements; and overseeing the drug and alcohol programs of subrecipients and their contractors, subcontractors, and lessees with safety-sensitive employees. The oversight program must ensure that all aspects of the drug and alcohol programs, including use of vendors and vendor activities, are in compliance with 49 CFR Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations, as amended, and 49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs, as amended.

KEY CONCEPTS

- Drug and Alcohol Program for Safety-Sensitive Employees
- Drug-Free Workplace Act Policy and Program

DEFINITIONS

Accident: an occurrence associated with the operation of a vehicle, if as a result:

- (1) An individual dies; or
- (2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
- (3) With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles incurs disabling damage as the result of the occurrence and such vehicle(s) are transported away from the scene by a tow truck or other vehicle; or

Module 1.16: Drug and Alcohol Testing and Drug-Free Workplace Act Programs



(4) With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, the public transportation vehicle is removed from operation.

Covered Employee: a person, including an applicant or transferee, who performs or will perform a safety-sensitive function.

Safety-Sensitive Function: any of the following duties, when performed by employees of recipients, subrecipients, operators, or contractors:

- (1) Operating a revenue service vehicle, including when not in revenue service;
- (2) Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
- (3) Controlling dispatch or movement of a revenue service vehicle;
- (4) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service (not applicable in all cases).
- (5) Carrying a firearm for security purposes.

LEVEL II PREVIEW

Drug and Alcohol Program for Safety-Sensitive Employees

Applicability

Recipients of S. 5307, 5309/5339, or 5311 funds must have a drug and alcohol testing program in place for all safety-sensitive employees. FTA drug and alcohol testing requirements may not apply to grantees that receive FTA funds exclusively for facilities and do not operate service under S. 5307, 5309/5339, or 5311 if these funds can be segregated from other program funds.

Other entities may be subject to FTA drug and alcohol requirements in certain circumstances. These include volunteer drivers, subrecipients that operate ferry systems, maintenance contractors, taxicab companies, and contracted off-duty police officers. The applicability of drug and alcohol testing depends on the nature of the service/work involved.

Module 1.16: Drug and Alcohol Testing and Drug-Free Workplace Act Programs



Required Policies

Subrecipients (and their contractors, subcontractors, and lessees) with safety-sensitive employees must have a drug and alcohol policy detailing the provisions of their drug and alcohol program. The following checklist identifies the minimum requirements of a policy as defined by 49 CFR 655.15:

- Proof of policy adoption by the appropriate governing body with effective date indicated.
- Identity of the person designated by the employer to answer questions about the anti-drug and alcohol misuse program.
- Categories of employees who are subject to testing.
- Prohibited behavior, including when the regulations prohibit the use of alcohol and drugs.
- Testing circumstances for drugs and alcohol.
- Drug and alcohol testing procedures consistent with 49 CFR Part 40, as amended.
- Requirement that covered employees submit to drug and alcohol testing administered in accordance with FTA regulations.
- Description of the behavior and circumstances that constitute a refusal to take a drug and/or alcohol test and a statement that a refusal constitutes a verified positive test result.
- Description of the consequences for a covered employee who has a verified positive drug test result or a confirmed alcohol test with an alcohol concentration of 0.04 or greater. If the system has a second chance policy, a description of the evaluation and treatment processes.
- Description of the consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04.

Substances Tested

The following substances are required to be tested for: marijuana, cocaine, opiates, phencyclidine, amphetamines, and alcohol.

Types of Testing

Six types of testing are required: 1) pre-employment (mandatory for drugs and optional but consistent for alcohol), 2) random, 3) post-accident, 4) reasonable suspicion, 5) return to duty, and 6) follow-up.

Module 1.16: Drug and Alcohol Testing and Drug-Free Workplace Act Programs



Pre-Employment Procedures

Subrecipients with safety-sensitive employees, after obtaining an employee's written consent, must request information from the employee's previous employers on the DOT drug and alcohol testing history of anyone seeking to begin safety-sensitive duties for the subrecipient for the first time. If the employee refuses to provide written consent, the subrecipient must not permit the employee to perform safety-sensitive functions. If the subrecipient obtains information that the employee has violated a DOT agency drug and alcohol regulation, it must not use the employee to perform safety-sensitive functions unless it also obtains information that the employee has subsequently complied with return-to-duty requirements.

Random Testing

Subrecipients are responsible for conducting drug and alcohol tests on all covered employees on a random basis. Random tests must be selected using a scientifically valid method and with no discretion by managers. Subrecipients must ensure that the dates for administering random tests are spread reasonably throughout the calendar year, and testing must be conducted on all days and hours during which safety-sensitive functions are performed.

Random testing rates of safety sensitive employees must be conducted at levels specified by FTA. The current minimum annual random testing rate for drugs is 25 percent of the number of safety sensitive employees. The current minimum annual random testing rate for alcohol is 10 percent.

Post Accident Testing

FTA requires that a DOT post-accident test be administered under two circumstances: 1) in the event of a fatal accident involving a transit vehicle; and 2) in the event of a non-fatal accident involving a transit vehicle. Subrecipients with safety-sensitive employees are required to test all covered employees operating the vehicle at the time of the accident and any other covered employee whose performance may have contributed to the accident (unless determined otherwise in nonfatal cases).

Module 1.16: Drug and Alcohol Testing and Drug-Free Workplace Act Programs



Monitoring Vendors

The state, as the grantee, is ultimately responsible for the integrity of the drug and alcohol testing program and the quality of testing services provided by vendors. Consequently, the state should ensure that subrecipients have a written contract that references 49 CFR Part 40 with each vendor and should monitor the quality of testing service vendors, including collection sites, medical review officers, and substance abuse professionals. States need only ensure that testing laboratories are HHS certified.

The state should not assume that vendors are following the correct procedures or that they are knowledgeable about FTA regulations. Note that FTA does not prescribe how a state must monitor vendors. The state simply must show evidence that monitoring is being performed at some level.

Reporting - Annual Calendar Year Management Information System (MIS)

FTA recipients and subrecipients prepare and maintain a summary of the results of their anti-drug and alcohol misuse testing programs performed during the previous calendar year. Subrecipients and the state must prepare, maintain, and submit to FTA annual MIS reports and collect, maintain, and submit annual MIS reports for S. 5307, 5309, and 5311 subrecipients, contractors, subcontractors, and lessees with safety sensitive employees summarizing drug and alcohol program testing results.

Drug-Free Workplace Act Policy and Program

Grantees that receive an award directly from a federal agency are required to maintain a drug-free workplace for all employees and to have an ongoing drug-free awareness program. The drug-free workplace requirements do not apply to subrecipients.

Module 1.17: Americans with Disabilities Act (ADA)



INTRODUCTION

Titles II and III of the Americans with Disabilities Act of 1990 (ADA) provide that no entity shall discriminate against an individual with a disability in connection with the provision of transportation service. The law sets forth specific requirements for vehicle and facility accessibility and the provision of service, including access to fixed route bus and rail and complementary paratransit service.

IMPORTANCE FOR STATE DOT STAFF

Compliance with ADA requirements and accessibility of FTA-funded transportation services is critical for enabling people with disabilities to live independent, productive lives. In addition to S. 5310, people with disabilities along with seniors make up a significant portion of the riders of typical S.5311-funded service.

KEY CONCEPTS

- Process for Handling and Resolving Complaints
- When Accessible Vehicles Must be Purchased
- Accessibility Features in Buses and Vans
- Facilities Accessibility
- General Service Requirements
- Service Requirements Specific to Fixed-Route
- Maintenance of Accessibility Features
- Complementary Paratransit Requirements
- Intercity Bus Service
- Ferry Service

States are responsible for oversight of subrecipient compliance with ADA. When making decisions about which services to fund, states should closely examine the service description with an eye toward service accessibility and ADA compliance. The ADA regulations are complex, particularly when ADA complementary paratransit is required. State transit programs have an important role in helping subrecipients get the training and technical assistance they need to be fully compliant.

In addition, state staff members who develop specifications for state-procured vehicles, as well as those who conduct pre-award and post-delivery audits, need to be knowledgeable about ADA standards for vehicle accessibility.

Module 1.17: Americans with Disabilities Act (ADA)



DEFINITIONS

Accessible: with respect to vehicles and facilities, complying with the accessibility requirements of 49 CFR Parts 37 and 38. As a general term, accessible is used to describe services, equipment, and facilities that people with disabilities are able to use or access.

Complementary Paratransit: comparable transportation service required by the ADA for individuals with disabilities who are unable to use fixed route transportation systems.

Demand Responsive Service or System: any system of transporting individuals, including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, which is not a fixed route system.

Disability: with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

Facility: all or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Fixed Route Service or System: a system of transporting individuals, including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, in which a vehicle is operated along a prescribed route according to a fixed schedule.

Operates: with respect to a fixed route or demand responsive system, the provision of transportation service by a public or private entity itself or by a person under a contractual or other arrangement or relationship with the entity.

Private Entity: any entity other than a public entity.

Module 1.17: Americans with Disabilities Act (ADA)



Public Entity: any state or local government; any department, agency, special purpose district, or other instrumentality of one or more state or local governments; and the National Railroad Passenger Corporation (Amtrak) and any commuter authority.

Wheelchair: a mobility aid belonging to any class of three or more-wheeled devices, usable indoors, designed or modified for and used by individuals with mobility impairments, whether operated manually or powered.

LEVEL II PREVIEW

ADA prohibits discrimination against people with disabilities in the areas of employment, public services including transportation, public accommodations including services operated by private entities, and telecommunications. This civil rights law sets forth specific requirements for public transportation services, vehicle and facility accessibility, and the provision of complementary paratransit service, as well as overall requirements for a complaint process, codified by U.S. DOT in 49 CFR Part 37.

When Accessible Vehicles Must be Purchased

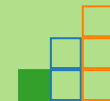
ADA requirements vary for public and private entities, as well as whether a vehicle is to be used in fixed route or demand responsive operations. However, all FTA subrecipients are subject to the requirements for public entities (even if the subrecipient is a private entity) for their FTA-funded services. Also, private entities that are contracted by public entities are still subject to the requirements; the private contractor is “standing in the shoes of” the public entity.

All new buses and vans purchased or leased by public entities operating fixed route service must be accessible. Public entities operating demand-responsive service for the general public must purchase or lease accessible vehicles unless it can be demonstrated that the system, when viewed in its entirety, provides a level of service to persons with disabilities, including persons who use wheelchairs, that is equivalent to the level of service it provides to persons without disabilities.

Accessibility Features in Buses and Vans

Certain accessibility features must be installed in vehicles, as regulated in 49 CFR Part 38: accessible lift or ramp entries, certain

Module 1.17: Americans with Disabilities Act (ADA)



doors/steps/thresholds, space for maneuvering, securement locations of a certain dimension, securement devices, seat belt and shoulder harnesses, priority seating signage, and interior circulation/support rail/lighting standards. In addition, some vehicles operated in fixed-route service must include an onboard public address system for stop announcements, a stop request system, and destination and route signs.

Facilities Accessibility

Any new facility to be used in providing public transportation services must also be accessible. If the entity alters an existing facility used to provide public transportation, the altered portions of the facility must be accessible. When the nature of an existing facility makes it impossible to comply fully with applicable accessibility standards, the alterations must be made accessible to the maximum extent feasible. States must ensure that subrecipients comply with ADA requirements when constructing or altering a facility. If there are parties other than the state or subrecipients responsible for portions of the facility, the state must ensure that they also comply with the ADA requirements.

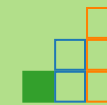
Each bus stop location should be chosen such that, to the maximum extent practicable, the area where a lift or ramp is to be deployed is accessible. Further, any bus stop improvements (i.e., installation of a shelter, landing pad/sidewalk) must meet ADA standards for accessibility. Subrecipients that undertake physical improvements to a stop location must ensure that the improved bus stop meets the minimum standards.

General Service Requirements

The DOT ADA regulations (49 CFR 37.161-167) detail specific general service requirements that apply across modes. The state must monitor subrecipients for compliance with applicable ADA service provision and training requirements. All public and private transportation providers must:

- Allow service animals to accompany individuals with disabilities in vehicles and facilities.
- Deploy the lift or ramp upon request, for standees as well as wheelchair-users.
- Accommodate people who use a wide variety of mobility devices.

Module 1.17: Americans with Disabilities Act (ADA)



- Not deny an individual transportation because a vehicle's securement system is unable to secure the mobility device.
- Make public information and communications available in accessible formats.
- Accommodate persons using respirators or portable oxygen.
- Train operators in the use of accessibility equipment as well as sensitivity to people with disabilities.

Other requirements are specific to fixed route services. These include:

- Deploying lifts and ramps at any designated bus stop unless physical conditions preclude use of the lift.
- Providing priority seating for people with disabilities including wheelchair securement areas.
- Announcing stops along the route to orient passengers with vision disabilities, as well as providing a means for such passengers to identify which vehicle to board at stops shared by more than one route.

Maintenance of Accessibility Features

The state is responsible for ensuring subrecipient maintenance of ADA accessibility features for vehicles, facilities, and facility-related equipment used in public transportation service, even if the assets were not purchased or constructed with FTA funds. ADA has specific requirements for vehicle maintenance and operations.

FTA does not prescribe a monitoring system or specific monitoring activities. Each state is responsible for developing and implementing a monitoring system that provides adequate assurance that ADA features are maintained in operative condition. Most states use a combination of monitoring mechanisms: periodic reporting, maintenance record review, visual inspections, and maintenance audits.

Complementary Paratransit Requirements

Each public entity operating a fixed route system must provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system. All S. 5311 subrecipients operating public fixed route service, including private non-profit entities, must comply with this requirement as

Module 1.17: Americans with Disabilities Act (ADA)



they operate the service on behalf of the grantee (the state), a public entity. The state must monitor subrecipients that provide complementary paratransit service for compliance with applicable ADA requirements.

The requirement to provide complementary paratransit service does not apply to intercity bus, commuter bus and rail, or university service. Further, route deviation service which is commonly operated in rural and small urban areas may be considered by FTA to be demand response service, so long as it has certain operating characteristics, and thus may not require ADA complementary paratransit service.

Eligibility Determinations/Determination Process

Each entity providing ADA complementary paratransit service is required to establish a process for determining ADA paratransit eligibility. FTA strictly limits eligibility to certain categories of individuals. Individuals may be ADA paratransit eligible on the basis of a temporary or permanent disability.

The eligibility determination process may include functional evaluation or testing of applicants. Evaluation by a physician or health professional may be part of the process, but a diagnosis of a disability in and of itself does not establish eligibility. What is needed is a determination of whether, as a practical matter, the individual can independently use the regular fixed route transit service.

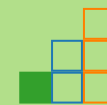
Transit systems can allow conditional eligibility for those individuals who meet the criteria for some of their travel but not all of their travel. They may also require passengers to be recertified at reasonable intervals. The entity must process completed applications within 21 days of submittal, giving a written reason for the determination and notice of the right to an appeal.

Service Criteria

The DOT ADA regulations have detailed requirements for the provision of ADA complementary paratransit. They include:

- Origin-to-destination service
- Minimum service area (3/4-miles from fixed routes)
- Service times (days and hours equivalent to those of fixed route service)

Module 1.17: Americans with Disabilities Act (ADA)



- Response time to reservation requests (on a “next day” basis during normal business hours, including acceptance on Sundays of trip requests for Mondays)
- Unrestricted trip purpose
- Fare limits (not to exceed twice the non-discounted fare for a similar fixed route trip)
- Accompanying riders (e.g., personal care attendants or companions)

Service Capacity

The DOT ADA regulations specify that an entity may not limit the availability of complementary paratransit to eligible individuals. Any operational pattern or practice that has the effect of limiting availability is also prohibited (e.g., limited phone reservation capacity, substantial numbers of late pickups, trip denials, missed trips, or excessively long trips). If on a regular basis, the phone lines are busy, average or long phone hold times are excessive, call abandonment rates are high, or callers after a certain time (e.g., mid-morning) are told that they cannot reserve trips for the next day, the grantee is limiting the availability of service.

The regulations allow grantees to negotiate pickup times with ADA eligible persons within a one-hour +/- window. If the grantee cannot schedule a ride that is within one hour before or after the desired departing time, the trip must be tracked as a denial. Paratransit trips should also be comparable in length to identical trips on the fixed route system.

ADA Applicability to Other Types of Service

Intercity Bus Service

Operators of intercity bus service funded by FTA (under contract to a public entity or in the form of a subrecipient grant) must comply with public entity service requirements. Complementary paratransit service is not required for intercity bus service.

Ferry Service

Ferry service is subject to ADA regulations pertaining to passenger vessels (49 CFR Part 39). States must ensure that ferry services that they or their subrecipients operate or oversee comply with the requirements under this part.

Module 1.18: Title VI



INTRODUCTION

Grantees must ensure that no person shall, on the grounds of race, color, or national origin, be excluded from participating in, or be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance. The grantee must ensure that federally supported transit services and related benefits are distributed in an equitable manner.

IMPORTANCE FOR STATE DOT STAFF

In addition to establishing their own statewide Title VI programs, states are responsible for oversight of subrecipient compliance with Title VI requirements. States must assist their subrecipients in complying with DOT's Title VI regulations, including the general reporting requirements. Primary recipients (including states) must monitor their subrecipients for compliance with the regulations. Importantly, if a subrecipient is not in compliance with Title VI requirements, then the primary recipient is also not in compliance.

KEY CONCEPTS

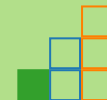
- Title VI Program
- Notifying Beneficiaries of Protection under Title VI
- Title VI Complaint Procedures and Complaint Form
- Recording and Reporting Transit-Related Title VI Investigations, Complaints, and Lawsuits
- Promoting Inclusive Public Participation
- Limited English Proficiency (LEP)
- Subrecipient Assistance
- Subrecipient Monitoring
- Title VI and Facilities Planning
- Requirements and Guidelines for Fixed Route Transit Providers

DEFINITIONS

Discrimination: any action or inaction, whether intentional or unintentional, in any program or activity of a federal aid recipient, subrecipient, or contractor that results in disparate treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, or national origin.

Environmental Justice: the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

Module 1.18: Title VI



Limited English Proficient (LEP) Persons: persons for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English. It includes people who reported to the U.S. Census that they speak English less than very well, not well, or not at all.

Low-Income Person: a person whose median household income is at or below the U.S. Department of Health and Human Services (HHS) poverty guidelines. Recipients are encouraged to use a locally developed threshold, provided that the threshold is at least as inclusive as the HHS poverty guidelines.

Minority Persons:

- (1) American Indian and Alaska Native, which refers to people having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
- (2) Asian, which refers to people having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- (3) Black or African American, which refers to people having origins in any of the Black racial groups of Africa.
- (4) Hispanic or Latino, which includes persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- (5) Native Hawaiian or Other Pacific Islander, which refers to people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

National Origin: the particular nation in which a person was born, or where the person's parents or ancestors were born.

Service Standard/Policy: an established service performance measure or policy used by a transit provider or other recipient as a means to plan or distribute services and benefits within its service area.

Title VI Program: a document developed by an FTA recipient to demonstrate how the recipient is complying with Title VI requirements. Direct and primary recipients must submit their Title VI Programs to FTA every three years. The Title VI Program must be approved by the recipient's board of directors or appropriate governing entity or official(s) responsible for policy decisions prior to submission to FTA. For state DOTs, the appropriate governing entity is the state's Secretary of Transportation or equivalent.

Module 1.18: Title VI



LEVEL II PREVIEW

Title VI Program

FTA requires that all direct and primary recipients (including states) document their compliance with DOT's Title VI regulations by submitting a Title VI Program to their FTA regional civil rights officer once every three years or as otherwise directed by FTA. FTA requires that all subrecipients submit Title VI Programs to the primary recipient from whom they receive funding in order to assist the primary recipient in its compliance efforts.

The Title VI Program must include (in addition to other information) a copy of the Title VI notice to the public; instructions for filing a Title VI discrimination complaint; a list of any public transportation-related Title VI investigations, complaints, or lawsuits filed with the recipient; a public participation plan and summary of outreach efforts; a plan for language assistance; a table of the racial breakdown of non-elected transit-related bodies and a description of efforts to encourage minority participation on such bodies; efforts to ensure subrecipient compliance with Title VI; and any equity analyses for the location/construction of new facilities.

Notifying Beneficiaries of Protection Under Title VI

Recipients are required to provide information to the public regarding their obligations under DOT's Title VI regulations and apprise members of the public of the protections against discrimination afforded to them. At a minimum, recipients must disseminate this information by posting Title VI notices on their websites and in public areas of their office(s). Recipients should also post Title VI notices at stations or stops, and/or on transit vehicles.

Title VI Complaint Procedures and Complaint Form

FTA requires all recipients to develop procedures for investigating and tracking Title VI complaints filed against them and to make their procedures for filing a complaint available to members of the public. Recipients must also develop a Title VI complaint form, and the form and procedure for filing a complaint must be available on the recipient's website.

Module 1.18: Title VI



Recording and Reporting Transit-Related Title VI Investigations, Complaints, and Lawsuits

FTA requires all recipients to prepare and maintain a list of any active investigations, lawsuits, or complaints that allege discrimination on the basis of race, color, or national origin.

Promoting Inclusive Public Participation

Title VI and the DOT LEP Guidance must be integrated into each recipient's established public participation plan or process. FTA expects states and subrecipients to seek out and consider the viewpoints of minority and LEP populations in the course of conducting public outreach and involvement activities.

Limited English Proficiency (LEP)

States and subrecipients must take reasonable steps to ensure meaningful access to benefits, services, information, and other important portions of their programs and activities for individuals who are limited-English proficient (LEP). Recipients must use the information obtained in a four factor analysis to determine the specific language services that are appropriate to provide. Grantees must develop a written Language Assistance Plan, or LEP Plan, to address the identified needs of the LEP population(s) it serves.

Subrecipient Assistance

States must assist their subrecipients in complying with DOT's Title VI regulations, including the general reporting requirements. States should provide information, forms, and data to subrecipients (e.g. sample procedures for tracking and investigating Title VI complaints).

Subrecipient Monitoring

FTA requires the following activities of primary recipients:

1. Document processes for ensuring that all subrecipients are complying with reporting requirements.

Module 1.18: Title VI



2. Collect Title VI Programs from subrecipients and review programs for compliance.
3. Request that subrecipients who provide transportation services verify that their level and quality of service is provided on an equitable basis (in response to a complaint or as otherwise deemed necessary).

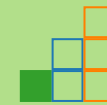
Title VI and Facilities Planning

When developing certain types of facilities, including, but not limited to storage facilities, maintenance facilities, and operations centers, recipients are subject to Title VI requirements. This includes completing an equity analysis to compare the impacts of various siting alternatives, ensuring that the location is selected without regard to race, color, or national origin.

Requirements and Guidelines for Fixed Route Transit Providers

All fixed route providers must develop system-wide standards and policies for each mode of service they provide. These standards and policies are used to examine how services and amenities are distributed across the system, in an effort to ensure that all users have equal access. Larger transit systems (those operating 50 or more fixed route buses in urbanized areas with over 200,000 in population) are also required to collect and analyze demographic data, conduct a formal monitoring program, and conduct service and fare equity analyses.

Module 1.19: Subrecipient Service Requirements and Restrictions



INTRODUCTION

States and their subrecipients must comply with numerous service requirements and restrictions as conditions of FTA funding. Among others, these include the following.

Ensuring Service is Open to the Public: S. 5307, 5311, and 5339 funds are available for expenditure for public transportation projects. S. 5311(f) funds are also available for intercity bus projects in other than urbanized areas. Services, vehicles, and facilities funded by these programs must be open to the public. S. 5310 program funds are available for public transportation capital projects that are planned, designed, and carried out to meet the specific needs of seniors and individuals with disabilities.

Half-Fare: For fixed route service supported with S. 5307 assistance, fares charged elderly persons, persons with disabilities, or an individual presenting a Medicare card during off peak hours must not be more than half the peak hour fare.

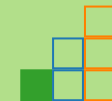
Charter Service: Recipients are prohibited from using federally funded equipment and facilities to provide charter service if a registered private charter operator expresses interest in providing the service. Some community-based charter services are allowed as exceptions. The charter bus prohibition protects private charter operators from unauthorized competition from FTA grant recipients.

KEY CONCEPTS

- Eligible/Incidental Use of FTA Funds
- Half-Fare: Applicability, Eligibility, and Information
- FTA Prohibition of Charter Service
- FTA Prohibition of School Bus Operations
- Oversight of Subrecipients

School Bus Operations: Recipients may not engage in school bus operations exclusively for the transportation of students or school personnel in competition with private school bus operators. First included in the 1973 Federal-Aid Highway Act, Congress intended to protect private school bus operators that could be unfairly displaced by federally funded transit systems. This requirement applies to exclusive bus service to public and private schools.

Module 1.19: Subrecipient Service Requirements and Restrictions



IMPORTANCE FOR STATE DOT STAFF

States are responsible for ensuring that S. 5307, 5310, 5311, and 5339 funds, as well as capital facilities and equipment funded under the former S. 5309 program, are being used to support eligible projects and services.

As a recipient of FTA funds, the state must ensure that it and its subrecipients comply with the prohibition against both charter service and exclusive school bus service. States are also responsible for oversight of S. 5307 subrecipient compliance with the half fare requirement. If the FTA determines that a recipient has engaged in a pattern of violations, it may withhold funding or bar the recipient from receiving funding in the future.

DEFINITIONS

Charter Service: transportation at the request of a third party for the exclusive use of a bus or van for a negotiated price; or transportation to the public for events/functions that occur on an irregular basis or for a limited duration (when the service is paid for by a third party or a premium fare is charged).

Disability: a physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such an impairment; or being regarded as having such an impairment.

Exclusively: service that a reasonable person would conclude was primarily designed to accommodate students and school personnel, and only incidentally to serve the nonstudent general public.

Incidental: the transportation of school students, personnel, and equipment in charter bus operations during off peak hours which does not interfere with regularly scheduled service to the public.

Public Transportation: regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income. Public transportation does not include intercity passenger

Module 1.19: Subrecipient Service Requirements and Restrictions



rail transportation provided by AMTRAK; intercity bus service; charter bus service; school bus service; sightseeing service; courtesy shuttle service for patrons of one or more specific establishments; or intra-terminal or intra-facility shuttle services.

Senior: an individual who is 65 years of age or older.

Trippler Service: regularly scheduled mass transportation service which is open to the public and is designed or modified to accommodate the needs of school students and personnel, using various fare collections or subsidy systems.

PREVIEW OF LEVEL II

Ensuring Service Is Open to the Public

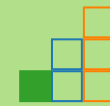
States are responsible for ensuring that S. 5307, 5309, 5310, 5311, and 5339 funds are being used to support eligible projects and services. For capital facilities and equipment, this responsibility endures so long as FTA has a financial interest (i.e., until the end of the useful life of the facility or equipment). Services, vehicles, and facilities funded by these programs must be open to the public and meet the definition of public transportation.

For monitoring purposes, states may require subrecipients to report information on the services provided and populations served on a periodic basis. They may also observe a subrecipient's service during site visits. States must ensure that any incidental service provided by subrecipients does not interfere with the provision of transit service. For example, transit providers receiving assistance under S. 5310 or S. 5311 may coordinate and assist in providing meal delivery service for homebound persons on a regular basis if this service does not conflict with the provision of transit services or result in a reduction of service to transit passengers.

Half-Fare

Fares charged to seniors, persons with disabilities, and Medicare cardholders during off peak hours for S. 5307 funded fixed route transportation must not be more than half the peak hour fare. This requirement is only for S. 5307 recipients and subrecipients. However, states may have a policy that extends the requirement to S. 5311 subrecipients or others.

Module 1.19: Subrecipient Service Requirements and Restrictions



The half-fare requirement is applicable to all fixed route services, whether the services are provided by the grantee directly, by a contractor, by a subrecipient, or by another entity. It does not apply to demand responsive or route deviation services, services that operate only during peak hours (e.g. express or commuter routes), services that operate only during off peak hours (e.g. lunchtime circulators), and services funded with other FTA assistance that do not use S. 5307 equipment or facilities.

The half fare program, as applied, may require passengers to show proof of eligibility when they pay their fares. Examples of proof of eligibility include a driver's license, Medicare card, special identification card, and ADA eligibility card. The grantee may require more than one piece of identification for determining age or disability-related qualifications. S. 5307 recipients and subrecipients must also communicate the half-fare policy both internally to their staff and to the public.

Charter Bus

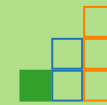
Charter service is transportation provided by a recipient at the request of a third party for the exclusive use of a bus or van for a negotiated price. Except under limited exceptions and exemptions, recipients are prohibited from using federally funded equipment and facilities to provide charter services. Recipients of federal transit funding must enter into the Charter Service Agreement.

The six charter service exemptions do not require any type of record keeping because they are not technically charter service. The exemptions generally apply when recipients are transporting their own employees, responding to an emergency, or providing charter service specifically for FTA program purposes. The six exceptions are contingent on specific reporting requirements and other restrictions. For four of the six exceptions, recipients must post quarterly electronic reports on the FTA Charter Registration Website. States are required to collect and submit these reports for their subrecipients.

School Bus

Recipients of federal transit funding are prohibited from operating exclusive school bus service. As a condition of funding, applicants must agree in writing that they will not engage in school bus operations exclusively for the transportation of students and school personnel, in competition with private school bus operators. Recipients can provide service to schools as part of their overall operations, as long as the schools are treated like any other origin or destination. The prohibition against the use of federally funded

Module 1.19: Subrecipient Service Requirements and Restrictions



buses, facilities, and equipment does not apply to school tripper service. However, tripper service must “operate and look like all other regular service.”

If the recipient is authorized to provide school bus service under one of three possible exemptions, it must enter into a different written agreement stating that it will notify FTA of any changes that might impact the exemption. School bus service allowed under the exemptions may not involve federally funded buses, equipment, or facilities. In addition, the non-federally funded buses, equipment, and facilities must be used incidentally, not interfering with their use for general public service.

Module 1.20: Training and Technical Assistance



INTRODUCTION

FTA requires states to inform subrecipients of applicable federal requirements and provide technical assistance in meeting those requirements. Several FTA topic areas (including ADA and Drug & Alcohol) have specific requirements for subrecipients to train their own staff. States must ensure that subrecipients conduct this training.

FTA requires states to certify that their subrecipients have the technical capacity to carry out proposed projects. Part of having technical capacity means having a well-trained, well-informed staff. States can build the technical capacity of their subrecipients by offering and sponsoring training on FTA requirements as well as essential topics in transit safety, operations, maintenance, and management.

States are required to assist their subrecipients in complying with all FTA regulations; this may require training on the part of the state. For example, as noted in the module on Title VI, the state must have procedures in place to provide assistance to potential subrecipients applying for funding, including applicants that would serve predominantly minority populations.

FTA provides Rural Transportation Assistance Program (RTAP) funds to assist states in supporting subrecipient training and technical assistance.

KEY CONCEPTS

- FTA-Required Training for Subrecipients
- Building Technical Capacity of Subrecipients
- Rural Transit Assistance Program

IMPORTANCE FOR STATE DOT STAFF

States are responsible not only for training their subrecipients on FTA requirements, but also for ensuring that their subrecipients provide FTA-required staff training.

Module 1.20: Training and Technical Assistance



FTA REQUIREMENTS AND RESOURCES

FTA-Required Training for Subrecipients

FTA requires states to inform subrecipients of applicable federal requirements and provide technical assistance in meeting those requirements. Several FTA topic areas have specific requirements for subrecipients to train their own staff. States must ensure that subrecipients conduct this training.

- **ADA** - As described in the ADA module, ADA requires that each fixed route or demand-responsive service operator ensure that personnel are trained to proficiency, as appropriate, for their duties.
- **Drug & Alcohol** - As described in the Drug & Alcohol module, specific training is required for safety-sensitive employees and their supervisors.
- **Safety** - As described in the Safety & Security module, S. 5329 of MAP-21 requires that all recipients of FTA funding develop an agency safety plan that includes, among other elements, an adequately trained safety officer and a staff training program for operations personnel and personnel directly responsible for safety. FTA has not yet defined the qualifications for the safety officer or other details on plan requirements.

Building Technical Capacity of Subrecipients

FTA requires states to certify that their subrecipients have the technical capacity to carry out proposed projects. Part of having technical capacity means having a well-trained staff. States can build the technical capacity of their subrecipients by offering and sponsoring training on FTA requirements as well as essential topics in transit safety, operations, maintenance, and management.

In addition to formal training, technical assistance may be provided through orientations, informal conversations, formal correspondence, on-site performance reviews, conferences, etc. Many states sponsor annual conferences, frequently in conjunction with the state transit association, at which training in federal requirements is provided.

Module 1.20: Training and Technical Assistance



Rural Transit Assistance Program (RTAP)

FTA provides RTAP funds to assist states in providing training and technical assistance to S. 5311 subrecipients. Most states have a state RTAP that supports S. 5311 subrecipients and sometimes other FTA subrecipients. Examples of state RTAP activities include state-conducted training, state-sponsored training, scholarships to send subrecipient staff to other training, state technical assistance provided via newsletter, state-provided technical assistance, and state-sponsored “roadeos.” Consult your state’s S. 5311 SMP for information about your state RTAP.

SUPPLEMENTAL NOTES

Numerous organizations offer training and technical assistance geared toward FTA subrecipients.

FTA-Funded Training Institutes and Programs

- **Transportation Safety Institute (TSI)** - funded by U.S. DOT, TSI offers intensive training courses for all transportation modes including public transit. Transit driver safety and train-the-trainer courses are offered for transit coach operations as well as paratransit. Other topics include drug and alcohol program training, collision prevention and investigation, and security and emergency management. <http://www.tsi.dot.gov/>
- **National Transit Institute (NTI)** - funded by FTA, NTI offers in-depth training on topics as diverse as ADA paratransit, safety and security awareness, human resources, procurement, financial planning, coordination, planning, technology, and more. Classes are offered throughout the U.S. as well as in distance learning formats. See www.ntionline.com.
- **Easter Seals Project ACTION (ESPA)** - funded under a cooperative agreement with FTA, ESPA offers training in a variety of topics related to accessible transportation services, through both in-person and distance learning offerings. Examples include the eight-week Excellence in Service for Paratransit Managers course, the three-day Introduction to Travel Training course, and many topics related to enhancing accessibility under the People on the Move series. ESPA also offers numerous training and technical assistance resources through its publications clearinghouse. Information is available at www.projectaction.org.

Module 1.20: Training and Technical Assistance

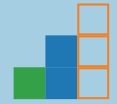


- **National Center on Senior Transportation (NCST)** - funded under a cooperative agreement from Agencies on Aging and FTA, NCST is implemented by Easter Seals in partnership with the National Association of Area Agencies on Aging. Distance learning opportunities are aimed at enhancing and coordinating transportation for older Americans. Information is available at www.seniortransportation.easterseals.com.
- **National RTAP** - In addition to RTAP programs within each state, there is also a National RTAP program that is currently managed by the Neponset Valley Transportation Management Association. The national program supports state programs, develops training materials and information resources about rural public transportation, and provides technical assistance. Information and technical assistance is available through a toll-free hotline (888-589-6821) and online (www.nationalrtap.org).

Other Recommended Training Resources

- **Community Transportation Association of America (CTAA)** - CTAA offers training and professional certification in safe operations (the PASS program), dispatching, supervision, management, and vehicle maintenance and inspection. CTAA trains trainers and certifies trainers and drivers through the PASS program. In addition to its year-round training offerings, CTAA hosts an annual conference (EXPO, typically held in June) that provides numerous professional development workshops, as well as smaller topic-specific conferences. More information is available on the CTAA website (www.ctaa.org).
- **American Public Transportation Association (APTA)** - APTA hosts numerous conferences that provide professional development sessions, with its annual Bus and Paratransit conference (typically held each May) the most relevant for S. 5311 and small urban S. 5307 subrecipients. APTA also hosts smaller, more specialized professional development events to focus on skill building needs, as well as “distance learning” opportunities such as webinars on topics of timely interest in the public transportation industry. More information is available on the APTA website (www.apta.com).
- Your state’s transit association, which likely offers training at its annual conference and potentially at other times during the year. Your state may even conduct its RTAP-sponsored training in conjunction with the state transit association conference.

Module 2.1: Introduction to FTA Grants



INTRODUCTION

A subset of the U.S. Department of Transportation, the Federal Transit Administration (FTA) provides federal funding for new and existing public transportation service across the country. For someone new to the field, getting a handle on the requirements of multiple FTA funding programs (not to mention FTA jargon and acronyms) can be overwhelming. This module provides a roadmap to FTA programs administered by states, and context for later and more in-depth modules.

KEY CONCEPTS

- Introduction to Public Transit
- A Brief History of Federal Transit Funding
- Regulatory Structure
- The Role of the States in FTA Programs
- The Programs: S. 5307, 5310, 5311, 5339
- FTA Cross-Cutting Requirements

IMPORTANCE FOR STATE DOT STAFF

FTA provides funding under a variety of formula based and discretionary programs. As a recipient of program funding, the state is responsible for administering and managing grants in compliance with all relevant federal regulations. The state is also responsible for overseeing the funds that it passes through to its sub-recipients. The state must ensure that sub-recipients comply with FTA requirements; the requirements flow through the state along with the funding.

DEFINITIONS

MAP-21: the acronym for the Moving Ahead for Progress in the 21st Century Act, the current authorizing legislation for federal transit funding. Congress establishes the legal authority to commence and continue FTA programs through authorizing legislation covering several years. On July 6, 2012, President Obama signed Moving Ahead for Progress in the 21st Century, reauthorizing surface transportation programs through fiscal year 2014. Each reauthorization amends the federal transit laws codified in 49 USC Chapter 53. MAP-21 took effect on October 1, 2012.



Module 2.1: Introduction to FTA Grants

Public Transportation (also called **transit**, **public transit**, or **mass transit**): defined in MAP-21 as “regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income.” The MAP-21 definition also specifically excludes Amtrak intercity passenger rail transportation, intercity bus service, charter bus service, school bus service, sightseeing service, courtesy shuttle service for patrons of specific establishments, and intra-terminal or intra-facility shuttle services.

Transit Agency/System: an entity (public or private) responsible for administering and managing transit activities and services. Transit agencies can directly operate transit service or contract out for all or part of the total transit service provided. When responsibility is with a public entity, it is a public transit agency. When more than one mode of service is operated, it is a multimodal transit agency.

The American Public Transportation Association (APTA) Fact Book Glossary is a great source for public transit-related definitions and is online at <http://www.apta.com/resources/statistics/Pages/glossary.aspx>.

Numerous other definitions are found in context throughout this module and in the resources referenced in the module. Your state transit program may also have its own set of definitions.

SUMMARY OF FTA REQUIREMENTS

Introduction to Public Transit

Public transit is often referred to as public transportation. The federal government, in the current authorizing legislation (MAP-21) for federal financial assistance for public transportation, defines public transportation as “regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income.” The MAP-21 definition also specifically excludes Amtrak intercity passenger rail transportation, intercity bus service, charter bus service, school bus service, sightseeing service, courtesy shuttle service for patrons of specific establishments, and intra-terminal or intra-facility shuttle services.

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Historically, the expression mass transit was commonly used as a synonym for public transit, but this expression has fallen out of favor with the emergence of types of specialized public transportation that move relatively small volumes of people.

Public transit takes many forms, often referred to in industry jargon as modes, such as local bus service, express bus commuter rail, subway, light rail, bus rapid transit, curb-to-curb paratransit, etc. Most modes fall within one of two major categories of transit service design: fixed-route service and demand-response service.

- **Fixed-Route Service:** Service provided on a repetitive, fixed schedule basis along a specific route with vehicles stopping to pick up and deliver passengers to specific locations. Each fixed-route trip serves the same origins and destinations, unlike demand-response service. Typically, fixed-route service is characterized by features such as printed schedules or timetables, designated bus stops where passengers board and disembark, and the use of larger transit vehicles. Fixed-route modes can include traditional bus service, commuter bus, light rail, subway (heavy rail), bus rapid transit, shuttle service, feeder, and ferry boat service. Fixed-route service is typically designed to move high volumes of people in an efficient manner, and is what comes to mind when the term mass transit is used.
- **Demand-Response Service:** Service where individual passengers can request door-to-door or curb-to-curb transportation from a specific location to another specific location at a certain time. These services may require advance reservations. Also referred to as dial-a-ride, paratransit, or demand-responsive transit (DRT). Demand-response modes can vary in the degree of flexibility and structure, and include ADA complementary paratransit, subscription service, shared-ride taxi, volunteer transportation, vanpools, and flexible routes (also known as route deviation). Demand-response service is typically designed to move small groups or individuals under circumstances where fixed route service cannot efficiently and effectively meet their needs—either because the riders themselves have special needs or simply because the demand is lower and less concentrated, such as in rural areas.

The term *mode* can also refer to the type of vehicle used, how it is powered, and upon what it travels—as well as the specific type of service that it operates.

- **Bus** is a mode of transit service (called motor bus in the National Transit Database) characterized by roadway vehicles powered by diesel, gasoline, battery, or alternative fuel engines contained within the vehicle. Buses operate on streets and roadways.

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- **Paratransit** or **Demand-Response** modes are characterized by the use of passenger automobiles, vans, or small buses powered by diesel, gasoline, battery, or alternative fuel engines contained within the vehicle, which operate on streets and roadways.
- **Heavy Rail** is a mode of transit service (also called metro, subway, rapid transit, or rapid rail) operating on an electric railway with the capacity for a heavy volume of traffic. It is characterized by high speed and rapid acceleration passenger rail cars operating singly or in multi-car trains on fixed rails; separate rights-of-way from which all other vehicular and foot traffic are excluded; sophisticated signaling; and high platform loading.
- **Light Rail** is a mode of transit service (also called streetcar, tramway, or trolley) operating passenger rail cars singly (or in short, usually two-car or three-car, trains) on fixed rails in right-of-way that is often separated from other traffic. Light rail vehicles are typically driven electrically with power drawn from an overhead electric line via a trolley or a pantograph; driven by an operator on board the vehicle; and may have either high platform loading or low level boarding using steps.
- **Ferry Boat** is a transit mode comprising vessels carrying passengers and in some cases vehicles over a body of water, and that is generally steam or diesel-powered.

For definitions of the many specific service modes, readers are encouraged to explore the APTA Fact Book Glossary (<http://www.apta.com/resources/statistics/Pages/glossary.aspx>).

Also good to know is that, when it comes to FTA funding administered at the state level, public transportation generally falls into three major categories in terms of target market: 1) urban transit, 2) rural transit, and 3) specialized transportation.

- **Urban transit** is what many people initially picture – bus and rail running in major cities with set schedules and routes. This type of transit is primarily funded through FTA’s Urbanized Area Program (S. 5307). Small urbanized areas (those with Decennial Census populations between 50,000 and 199,999) have differing federal requirements than large urbanized areas (those with Decennial Census populations of 200,000 or more).
- Given the nature of its service area, **rural transit** may use smaller vehicles, run on more flexible routes with time for deviations, or offer demand response service. FTA supports this type of transit through the Rural Area Program (S. 5311).

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- Finally, **specialized transportation** serves those whose needs are not met by more traditional public transit, including the elderly and individuals with disabilities. The Enhanced Mobility of Seniors and Individuals with Disabilities Program (S. 5310) funds most specialized transportation.

The FTA funding programs introduced above will be described later in this module.

A Brief History of Federal Transit Funding

Federal financial assistance for public transportation has a relatively short history, beginning in 1964 when Lyndon Johnson signed the Urban Mass Transportation Act into law. By authorizing funding in support of public transportation, the Johnson administration was attempting to revitalize deteriorating urban transit systems. Shortly after came the creation of the U.S. Department of Transportation and the Urban Mass Transportation Administration (UMTA). Subsequent transportation laws had new and expanded provisions, like planning services for the elderly and disabled (1970), buying American (1978), and providing technical assistance for rural systems (1987). Reflecting this broadening mandate and inclusion of urban transit, rural transit, and specialized transportation, UMTA changed its name to FTA in 1991 with the passage of Intermodal Surface Transportation Efficiency Act (ISTEA).

Authorizing Legislation Over Time

- *Urban Mass Transportation Act, 1964*
- *Urban Mass Transportation Assistance Act, 1970*
- *National Mass Transportation Assistance Act, 1974*
- *Surface Transportation Assistance Act, 1978*
- *Federal Public Transportation Act, 1982*
- *Surface Transportation and Uniform Relocation Assistance Act, 1987*
- *Intermodal Surface Transportation Efficiency Act (ISTEA), 1991*
- *Transportation Equity Act for the 21st Century (TEA-21), 1998*
- *Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU), 2005*
- *Moving Ahead for Progress in the 21st Century Act (MAP-21), 2012*

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Regulatory Structure

When a document (or an online curriculum...) starts throwing around terms like “CFR this” or “USC that,” it may be tempting to skim ahead. However, laws and regulations are the basis for FTA funding assistance, and they are referenced repeatedly in FTA resources. The above list of transportation acts are the top rung in a hierarchy of FTA requirements. Also known as **federal statutes**, laws like MAP-21 are enacted by Congress and codified in the United States Code (USC). The USC is divided into titles; Title 49, Chapter 53 covers public transportation. Next are **federal regulations**, issued by agencies like FTA that get their authority to regulate from the enabling statutes. Regulations are designed to interpret the statutes and detail implementation and enforcement. Federal regulations are codified in the Code of Federal Regulations (CFR) and published in the *Federal Register*. Like the USC, Title 49 of the CFR also covers transportation.

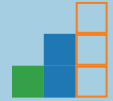
The Common Rule: Beyond any FTA-specific grant requirements, 49 CFR Part 18 “Uniform Administrative Requirements for Grants and Cooperative Agreements” applies to all federal grant recipients (also known as the Common Rule).

The **FTA Master Agreement** is the next level in the hierarchy. Updated annually, the Master Agreement contains FTA and other federal requirements applicable to all grant recipients. Its purpose is to detail terms and conditions, including the recipient’s agreement to maintain the legal, financial, technical, and managerial capacity to carry out federally funded projects. The Master Agreement also spells out that as recipients, *states are responsible for oversight of their subrecipients*.

Ranking lowest in the hierarchy is administrative guidance (e.g. directives, orders, guidelines, FTA circulars, and policy letters commonly referred to as “Dear Colleague” letters). Circulars cover the different sections of the USC, and provide instructions to grantees on how FTA grants will be administered. This guidance provides grantees with direction on program specific issues and statutory requirements. Grantees are required to comply with all circulars after signing the agreement accepting federal financial assistance. The “Grants Management Requirements” FTA Circular 5010.1D is a good reference point in the absence of a program-specific circular.

FTA circulars are updated through a formal rulemaking process (with proposed guidelines published in the Federal Register for public review and comment). Each update may be revised multiple times, so check for the most recent revision before consulting a circular.

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Authorization vs. Appropriation: authorizing legislation (e.g. MAP-21) establishes or continues the legal operation of a federal program, while an annual appropriations measure funds the program. Congress typically amends FTA's authorizing legislation every four to six years. The FTA publishes funding levels in the *Federal Register* after each appropriation.

The Role of the States in FTA Programs

FTA provides funding under a variety of formula based and discretionary programs. As a recipient of program funding, the state is responsible for administering and managing grants in compliance with all relevant federal regulations. It must have the technical capacity and staffing resources to carry out its responsibilities [see C.5010.1D pII-6 for a detailed list of responsibilities].

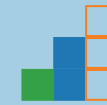
The state is also responsible for overseeing the funds that it passes through to its subrecipients. The state must ensure that subrecipients comply with FTA requirements; the requirements flow through the state along with the funding. Among others, the state's oversight responsibilities include:

- Having a written agreement with each subrecipient detailing expectations and requirements (this often incorporates the FTA Master Agreement)
- Providing technical assistance to help subrecipients meet those requirements
- Monitoring the subrecipients for compliance (e.g. site visits) and documenting the systems for doing so

Under MAP-21, the following programs are administered by state DOTs: S. 5310 (for rural and small urbanized areas; some states may be the designated recipient for large urbanized areas as well), S. 5311, and S. 5339. Many states also administer the S. 5307 program (for small urbanized areas only). Prior to the passage of MAP-21, states also administered the former S. 5316 program (which MAP-21 melded into the S. 5307/5311 programs) and S. 5317 program (which MAP-21 folded into the S. 5310 program). Also prior to MAP-21, states were responsible for the entire S. 5310 program, including large urbanized areas, but MAP-21 changed the structure.

States must develop and submit a **State Management Plan (SMP)** to FTA for the S. 5310 and S. 5311 programs (either stand-alone plans or combined). The SMP details the policies and procedures used to administer the programs. The SMP must be current and reflect

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actual practices, and include the elements outlined in the program circulars *[states will soon need to update their SMPs for MAP-21; FTA issued proposed updated circulars for S. 5310 and S. 5311 while this curriculum was being drafted]*. For all significant revisions (i.e., changes in policy that impact subrecipients), the FTA requires an opportunity for public comment.

By explaining (among many other subjects) its processes for enforcement, oversight, and technical assistance, the SMP serves as a guide for subrecipients. Importantly, states use the SMP to outline their methods and criteria for subrecipient project selection. The state must distribute FTA funding on a fair and equitable basis, meaning that all potential subrecipients have a fair opportunity to demonstrate how they meet the stated criteria.

As part of the grant application process, states must also submit a **Program of Projects (POP)** to FTA through the TEAM website (which FTA plans to replace with the TrAM system in FY 2015). The POP lists all subrecipients and identifies the projects for which the state is applying for financial assistance. It includes a brief description of the projects, total project cost, and federal share for each project. The state must also certify to FTA that it and its subrecipients have the financial capacity to carry out the proposed POP.

Under SAFETEA-LU, funding through S. 5310, 5316, and 5317 required that projects be derived from a locally developed, **coordinated public transit-human services transportation plan**. This coordinated planning requirement was designed to be a participatory process including public, private, and human service transportation providers. Under MAP-21, this requirement continues to apply to S. 5310. States must ensure that their subrecipients are involved in the coordinated planning process.

The coordinated plan must:

- 1) Identify the transportation needs of individuals with disabilities, older adults, and people with low incomes,
- 2) Assesses available services,
- 3) Provide strategies to address the gaps between services and needs, and
- 4) Prioritize transportation services for funding and implementation.

More information about the coordinated planning requirements is found in the Local and Regional Planning module.

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Additionally, some states are designated recipients for large urbanized transit service, and they themselves operate (or contract for the operation of) transit service. These states are subject to FTA requirements for S. 5307 for large urbanized areas. These requirements are not addressed in this curriculum.

Recipients Galore

Designated Recipient: Either a state, or an entity designated by a governor, designated to receive funds from FTA (e.g., an MPO).

Direct Recipient: A public entity authorized by a designated recipient or the state to receive funds from FTA (e.g. a state DOT).

Subrecipient: An entity (e.g. a local government, a non-profit organization, or a public transportation operator) that receives FTA funds through a direct or designated recipient. The original recipient remains responsible for compliance under the grant.

The FTA Funding Programs

Though the details differ, a handful of characteristics are *typical of most FTA funding programs*:

- Eligible expenses vary by program (capital, operating, or planning)
- Eligible recipients and subrecipients also vary by program (states, local government authorities, private non-profits, public transit operators, etc.)
- All have local match requirements, generally:
 - Capital assistance: 80% federal share + 20% local match
 - Operating assistance: 50% federal share + 50% local match
- All have post-award reporting requirements, submitted through TEAM:
 - Federal Financial Reports (FFRs)- financial data
 - Milestone/Progress Reports (MPRs)- narrative description

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- Some have National Transit Database (NTD) reporting requirements (S. 5307 and S. 5311 recipients)
- All involve FTA oversight reviews. The two comprehensive reviews (i.e. not program- or project-specific) are:
 - The Triennial Review (S. 5307 recipients)
 - The State Management Review (S. 5311 and S. 5310 recipients)
- Under MAP-21, there will be increased emphasis on reporting and performance monitoring. It is still unclear what will be required, but it appears that it will apply to all FTA funding programs administered by the states.

Capital projects typically involve purchasing, leasing, constructing, maintaining, or repairing facilities, vehicles, technology, other equipment, or infrastructure. Under certain FTA programs, capital projects can include mobility management activities.

Operating projects are typically related to service delivery, including the operation, maintenance, and management of a public transportation system. Operating expenses usually include such costs as driver salaries, fuel, and items having a useful life of less than one year.

Local Match

FTA program funding comes with minimum local match requirements, generally at 20% for capital projects and 50% for operating expenses (net of operating revenue). Local match cannot come from other U.S. DOT funding, or from farebox revenue. Some examples of sources that may be used for local match include:

- dedicated tax revenues;
- state or local appropriations (many states provide a state match to FTA funding that reduces the amount of local funding subrecipients must garner);
- non-farebox revenues from transit operations (e.g. advertising, concessions)
- private donations
- in-kind contributions

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Farebox revenue cannot be used as local match; instead, farebox revenue is deducted from the total project cost to determine operating deficit, and federal and local match percentages are applied to this deficit rather than the total project cost. Contract revenue (e.g., from human service agencies) can sometimes be used at local match, depending on the FTA program and transit system size. More information about requirements for and allowable sources of local match are included in the Subrecipient Financial Management module.

MAP-21: Congress reauthorized FTA’s surface transportation programs through FY14 by passing MAP-21. Each reauthorization amends the laws codified in 49 USC Chapter 53. President Obama signed MAP-21 on July 6, 2012, and it took effect on October 1, 2012. *MAP-21 repealed several funding programs that existed under SAFETEA-LU.* Funds authorized under these programs remain available until the funds are spent, rescinded by Congress, otherwise reallocated, or reach the end of their period of availability.

Section 5307- Urbanized Area Formula Program

For more information, see FTA Circular 9030.1E (proposed).

Why: Funding to urbanized areas (UZAs), i.e. areas with a population of 50,000 or more as designated by the Census Bureau. The program is a “core investment” for places that depend on public transportation for mobility and congestion relief.

What: Capital, planning, job access and reverse commute (JARC) projects, and some operating expenses are eligible. Operating expenses are limited to areas with less than 200,000 in population, or in areas greater than 200,000 where the recipient operates 100 buses or less in peak hour fixed-route service [*new in MAP-21*].

MAP-21 folded the former JARC program (S. 5316) into both S. 5307 and 5311. JARC projects are intended to improve access to suburban employment opportunities and to employment-related transportation services, specifically for welfare recipients and low-income individuals (e.g. late night and weekend service, guaranteed ride home service, etc.). There is no floor or ceiling to the amount of funding used for JARC projects under S. 5307.

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Who: States or designated recipients: a designated recipient is responsible for administering the program for UZAs over 200,000; some states are responsible for all UZAs between 50,000 and 200,000. Subrecipients are state/local government authorities.

How: Allocation is based on population in UZAs over 200,000; and on population, population density, and low income individuals in UZAs between 50,000 and 200,000. To be eligible, projects must be included in the local Transportation Improvement Plan (TIP) and State Transportation Improvement Plan (STIP).

A **designated recipient** can be either:

- designated by a state governor, responsible local officials, and publicly owned operators of public transportation, to receive and apportion funding under certain FTA programs (including S. 5307) to urbanized areas of 200,000 or more in population; or
- a state or regional authority, if the authority is responsible under the laws of a state for a capital project and for financing and directly providing public transportation.

Typical designated recipients include MPOs, regional transit authorities, and public transportation districts.

A **direct recipient** is authorized by a designated recipient or state to receive S. 5307 funds directly from FTA.

In small urbanized areas, the state is sometimes the recipient of S. 5307 funds with local transit operators as its subrecipients. In other states, transit systems operating in small urban areas have a direct recipient relationship with FTA. In these cases, states may have little or no involvement in administering transit funds to these operators unless the state has a state transit funding program.

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Section 5310 – Enhanced Mobility of Seniors and Individuals with Disabilities

For more information, see FTA Circular 9070.1G (proposed).

Why: To improve mobility for seniors and individuals with disabilities through projects that meet their special needs. S. 5310 also includes funding for public transportation services and alternatives to those services that go beyond ADA requirements. The program spans geographies—from rural to urban.

What: Capital and operating expenses are eligible. Recipients can also use up to 10% of program funds for administration.

MAP-21 folded the former New Freedom program (S. 5317) into S. 5310. Under the new program, at least 55% of program funds must go toward capital projects, as under the former S. 5310: “projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable.”

Up to 45% of funds may go toward projects formerly eligible under New Freedom, i.e. those that:

- exceed ADA requirements,
- improve access to fixed-route service and decrease reliance on complementary paratransit, or
- are alternatives to public transportation and assist seniors and individuals with disabilities.

Who: States (for areas under 200,000 in population) or designated recipients. Subrecipients are primarily private non-profits. Subrecipients may be state/local government authorities if no non-profits are available, or if they are approved by the state (e.g. a county agency on aging).

How: Under MAP-21, 60% of total funding goes to designated recipients in large UZAs (200,000 and above in population); 20% to states for small UZAs (50,000 to 200,000); and 20% to states for rural areas. Recipients then allocate by formula (the number of elderly persons and persons with disabilities). To be eligible, projects must be derived from a locally developed, coordinated public transit-human services transportation plan.

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Section 5311 – Formula Grant for Rural Areas

For more information, see FTA Circular 9040.1F [not yet up-to-date under MAP-21].

Why: Funding to support public transportation in rural areas (less than 50,000 in population). Rural providers may design their services to maximize use by the transportation disadvantaged (i.e. the elderly and individuals with disabilities), but the state must ensure that the services are open and marketed to the general public.

What: Capital, operating, planning, and job access and reverse commute (JARC) project expenses are eligible. Recipients can also use up to 10% of program funds for administration [reduced from 15% under SAFETEA-LU]. Additional components/set asides include:

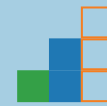
- **Intercity Bus, S. 5311(f):** states must use 15% of their total S. 5310 funding to support intercity bus service, unless the governor, in consultation with intercity providers, certifies that intercity bus needs are being adequately met.
- **Rural Transportation Assistance, S. 5311(b)(3):** 2% of the total S. 5311 funding goes to training and technical assistance for rural transit operators.
- **Tribal Program, S. 5311(c)(1):** a combination of formula and discretionary funding for tribes.
- **Appalachian Development Public Transportation Assistance:** formula funding for states in Appalachia.

MAP-21 folded the former JARC program (S. 5316) into both S. 5307 and 5311. JARC projects are intended to improve access to suburban employment opportunities and to employment-related transportation services, specifically for welfare recipients and low-income individuals (e.g. late night and weekend service, guaranteed ride home service, etc.). There is no floor or ceiling to the amount of funding used for JARC projects under S. 5311.

Who: States or Indian tribes. Sub-recipients are state/local government authorities, private non-profits, or public transportation/intercity bus operators.

How: Allocation is based on land area and population (~83% of total funding), and on land area, vehicle revenue miles, and low-income individuals (~17% of total funding). To be eligible, projects must be included the State Transportation Improvement Plan (STIP).

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Section 5339 – Bus and Bus Facilities

For more information, see FTA Circular 9300.1B [not yet up-to-date under MAP-21].

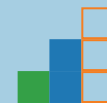
Why: Funding for new and replacement buses and bus-related facilities.

What: Capital assistance only.

Who: States or designated recipients that operate or allocate funding to fixed-route bus operators. Sub-recipients are state/local governmental authorities or private non-profits.

How: Each state receives a flat amount. The remainder is allocated based on population, vehicle revenue miles, and passenger miles. Previously a discretionary rather than a formula program, Bus and Bus Facilities shifted from S. 5309 (repealed) to its own S. 5339 under MAP-21. The former S. 5309 included Fixed Guideway and New Starts/Small Starts as well as Bus and Bus Facilities.

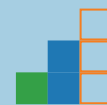
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<i>Highlights of MAP-21 Program Changes</i>			
<i>New</i>	<i>Repealed</i>	<i>Consolidated</i>	<i>Modified</i>
<ul style="list-style-type: none"> • Safety Authority (5329) • State of Good Repair Grants (5337) • Asset Management (5326) • Bus and Bus Facilities Formula Grants (5339) • Public Transportation Emergency Relief (5324) • TOD Planning Pilot Grants (20005(b) of MAP-21) 	<ul style="list-style-type: none"> • Clean Fuels Grants (5308) • Job Access and Reverse Commute (5316) [JARC] • New Freedom Program (5317) • Paul S. Sarbanes Transit in the Parks (5320) • Alternatives Analysis (5339) • Over-the-Road Bus (Sec. 3038 –TEA-21) 	<ul style="list-style-type: none"> • Urbanized Area Formula Grants (5307) [JARC] • Enhanced Mobility of Seniors and Individuals with Disabilities (5310) [New Freedom] • Rural Area Formula Grants (5311) [JARC] 	<ul style="list-style-type: none"> • Fixed Guideway Capital Investment Grants (5309) • Metropolitan and Statewide Planning (5303 & 5304) • Research, Development, Demonstration, and Deployment (5312) • Technical Assistance and Standards (5314) • Human Resources and Training (5322)

Source: http://www.fta.dot.gov/documents/MAP-21_Public_Presentation.pdf

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FTA Cross-Cutting Requirements

In addition to program-specific requirements, state DOTs and their subrecipients must meet numerous other FTA and federal requirements. These include:

- **Americans with Disabilities Act (ADA)** - prohibits discrimination against individuals with disabilities. This federal civil rights law and the U.S. DOT and FTA implementing regulations set forth specific requirements for providing services that are accessible and nondiscriminatory to people with disabilities. ADA also prohibits discrimination in employment. The ADA module describes ADA requirements with which state transit staff need to be familiar.
- **Asset Management** - MAP-21 established new requirements for transit asset management by FTA's grantees as well as new reporting requirements to promote accountability. Transit assets are capital assets such as equipment, vehicles, infrastructure, and facilities. FTA requirements for asset management are currently under development. All FTA grantees and their subrecipients will be required to develop transit asset management plans and submit periodic reports.
- **Buy America** - requires that FTA-funded projects exceeding a certain dollar value (currently \$100,000) involving steel, iron, and manufactured products are produced in the United States, and the state and subrecipients are required to conduct certain compliance monitoring, particularly for vehicle manufacturing. The Procurement module provides more information.
- **Charter Bus** - prohibits FTA-funded service, equipment, or facilities use in providing charter service except under very limited circumstances.
- **Davis-Bacon Act** - requires paying the local prevailing wages on public works projects, including construction projects funded by FTA valued at \$2,000 or more. The Procurement module provides more information.
- **Debarment and Suspension** - tools used to protect the public from fraud, waste, and abuse in federal transactions. States and subrecipients must not make, or permit, any award (subgrant or contract) at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs. The Legal Authority and Annual Certifications and Procurement modules provide more information.

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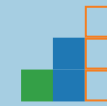
- **Disadvantaged Business Enterprises (DBE)** - States and subrecipients must create a level playing field on which disadvantaged businesses (i.e., those owned by minorities or women) can compete fairly for DOT-assisted contracts. DBE is a civil rights program that applies to procurement. The Disadvantaged Business Enterprise module provides more information.
- **Drug and Alcohol** (Alcohol and Controlled Substances Testing under MAP-21) - States and subrecipients receiving S. 5307, S. 5311, or S. 5339 funds must have a drug and alcohol testing program in place for all safety-sensitive employees.
- **Environmental Justice (EJ)** - a civil rights concern that requires analysis of how a proposed project (e.g., a service or facility) would affect minority or low-income populations. FTA-funded projects that would have a disproportionately high or adverse effect on these populations may only be carried out if alternatives or mitigating measures are not practicable.
- **Equal Employment Opportunity (EEO)** - prohibits discrimination in employment under any FTA-funded project, program, or activity on the grounds of race, color, religion, national origin, sex, age, or physical or mental disability.
- **Labor Protection** - Section 5333(b) of 49 USC protects transit agency employee working conditions from being adversely affected by the provision of federal grants. States and S. 5311 subrecipients are required to submit a special warranty.
- **Lobbying** - The use of federal funds for lobbying is prohibited. Recipients (and their contractors and subrecipients) receiving federal grants and contracts over \$100,000 must certify compliance with this restriction and submit reports on any non-federally funded lobbying activities.
- **National Transit Database (NTD)** - Recipients of S. 5307 and S. 5311 funds must collect, record, and report financial and non-financial data. The proposed S. 5310 circular that was released in August 2013 indicates that S. 5310 subrecipients will also be required to report NTD data. Currently, states collect and submit this data on behalf of their S. 5311 subrecipients. For more information, see the Subrecipient Grant Administration module.
- **Planning/Program of Projects** - States and recipients must comply with transportation planning requirements in accordance with FTA requirements, MAP-21, and statewide and metropolitan planning regulations.

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- **Procurement** - a host of federal requirements and restrictions kick in when FTA funds are used to purchase supplies, equipment, or services. States and subrecipients must have written procurement policies and procedures that meet numerous requirements and provide for full and open competition. Buy America and DBE are large elements of the procurement requirements and thus typically stand on their own as FTA compliance areas. The Procurement module provides more information.
- **Protection of the Environment** - Many different federal laws, rules, and regulations govern environmental review of FTA-assisted projects. The National Environmental Policy Act (NEPA) establishes an umbrella process for coordinating compliance with each law through the preparation of an Environmental Impact Statement (EIS) for major projects. This important planning step determines how a proposed project would affect traffic (parking, access, and circulation), air quality, noise, vibration, community, parks and recreational areas, wetlands, flood plains, soil/water conditions, water quality, ecologically sensitive areas, endangered species, displacement of current residents and businesses, equitability of service to minority and low income populations (E), and compatibility with zoning.
- **Safety & Oversight** - MAP-21 grants FTA the authority to establish and enforce a new comprehensive framework to oversee the safety of public transportation throughout the United States as it pertains to heavy rail, light rail, buses, ferries, and streetcars. The law requires, among other things, that FTA update the State Safety Oversight (SSO) program to ensure that rail transit systems are meeting basic, common-sense safety requirements. The law also includes important new safety provisions for bus-only operators. FTA will develop minimum safety performance standards, and FTA's Bus Testing Program will be required to incorporate the standards into a new Pass/Fail rating system. All recipients of FTA funding will develop an agency safety plan and certify that the plan meets FTA requirements. For S. 5311 subrecipients, the plan may be drafted and certified by the recipient or the state. For recipients receiving S. 5307 funds, FTA will issue a rule designating the small public transportation providers or systems that may have their safety plans drafted or certified by the state.
- **School Bus** - prohibits FTA-funded service, equipment or facilities use in providing exclusive school bus service except under very limited circumstances.
- **Title VI** - Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the grounds of race, color, or national origin, in terms of service delivery as well as distribution of transit services and related benefits, and employment. For more information, see the Title VI module.

Module 2.1: Introduction to FTA Grants



Recipients of funding under the S. 5307 program are subject to these additional specific requirements:

- **Drug-Free Workplace** - States and direct recipients are required to maintain a drug-free workplace for all employees and to have an ongoing drug-free awareness program.
- **Half Fare** - During non-peak hours for fixed route service supported with S. 5307 assistance, grantees must ensure that the fare charged elderly persons, persons with disabilities or an individual presenting a Medicare card will not be more than half the peak hour fare.
- **Public Comment on Fare and Service Changes** - Recipients of S. 5307 assistance are expected to have a written copy of a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation services.
- **Security** - S. 5307 recipients must annually certify that they are spending at least one percent of such funds for transit security projects or that such expenditures for security systems are not necessary.

TIPS ON RELATIONSHIPS TO OTHER MODULES

This module provides foundation knowledge that is needed for the remaining modules.

QUIZ

1. The acronym DRT refers to:

- 1) Deviated-Route Transit
- 2) Demand-Responsive Transit

Module 2.1: Introduction to FTA Grants



2. S. 5310 subrecipients are considered FTA designated recipients.

1) True. 2) False.

3. -What is the maximum Federal share under the S. 5339 Bus and Bus Facilities program?

- 1) 75%.
- 2) 80%.
- 3) 50% of the net operating cost.
- 4) varies depending on the type of project.

4. For which programs are states not eligible to be the designated recipient for small urbanized areas?

A) S. 5307 B) S. 5310 C) S. 5311

- 1) A.
- 2) A & B.
- 3) C.
- 4) none of the above.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

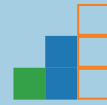
Module 2.1: Introduction to FTA Grants



LINKS/INFO

- FTA Circulars. http://www.fta.dot.gov/legislation_law/12349.html.
- FTA MAP-21 Website (includes Program Fact Sheets). <http://www.fta.dot.gov/map21.html>.
- FTA Master Agreement. <http://www.fta.dot.gov/documents/19-Master.pdf>.
- American Public Transportation Association (APTA) Fact Book Glossary. <http://www.apta.com/resources/statistics/Pages/glossary.aspx>
- Currier, Reasa. Public Transit: Looking Back and Moving Forward. Transportation Law Journal, 37: 119. 2010. http://www.fta.dot.gov/documents/transportation_law_journal_Hein.pdf.

Module 2.2: Legal Authority and Annual Certifications



INTRODUCTION

This module addresses the basic legal requirements to receiving FTA funds, including those related to conducting business in an ethical manner. Grantees must be eligible and authorized under state and local law to request, receive, and dispense FTA funds and to execute and administer FTA funded projects. The authority to take actions and responsibility on behalf of the grantee must be properly delegated and executed.

Before expending any FTA funds on projects, the state certifies to FTA that it, and others operating on its behalf, have met all statutory and program requirements. The governor of your state has designated your agency with the principal authority and responsibility for administering FTA program funds and has assured FTA that your agency has the requisite technical capacity to receive and administer those funds. Your agency, on the other hand, is responsible for ensuring that your subrecipients are aware of and comply with the federal requirements associated with the FTA programs. Thus, the state must have an on-going system to ensure that subrecipients adhere to federal requirements. The function of subrecipient oversight starts with 1) your review of the legal authority of subrecipients, and 2) their assurances (by signing the annual certifications) that they will comply with the federal rules.

KEY CONCEPTS

- Subrecipient Legal Authority
- Role of the Governing Body and Advisory Committee
- Subrecipient Certifications and Assurances
- Suspension/Debarment
- Lobbying Restrictions

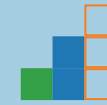
In addition to having your subrecipients sign their annual certifications and assurances, two additional actions are required of you as the state agency—one dealing with the restrictions on lobbying and another dealing with ensuring that subrecipients are not barred from doing business with the federal government. These are outlined below.

The statutes and regulations that spell out these regulations are:

Suspension/Debarment

- 2 CFR Part 180, “OMB Guidelines to Agencies on Government-wide Debarment and Suspension”
- 2 CFR Part 1200, “Nonprocurement Suspension and Debarment”
- System Award Management Search

Module 2.2: Legal Authority and Annual Certifications



Lobbying Restrictions

- 1989 Byrd Anti-Lobbying Amendment, 31 USC 1352, as amended by the Lobbying Disclosure Act of 1995
- 49 CFR Part 20, “New Restrictions on Lobbying”

IMPORTANCE FOR STATE DOT STAFF

Establishing that your subrecipients are authorized to receive FTA funds is a critical part of every state’s transit program. The certifications and assurances are generally handled as part of the state’s annual grant application process and are intended to ensure that subrecipients comply with federal regulations as outlined in the FTA Master Agreement. It is important that your subrecipients understand and comply with these requirements since ultimately, if they are not in compliance, the state is not in compliance.

A special note regarding lobbying: failing to abide by lobbying restrictions can result in fines. In addition to this tangible consequence, it is important to remember that FTA funding is ultimately taxpayer money; the receipt of FTA funding comes with certain ethical obligations. These obligations are passed on to subrecipients and their contractors and subcontractors. States are responsible for oversight of subrecipient compliance with lobbying restrictions.

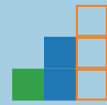
DEFINITIONS

Covered Federal Action: any of the following federal actions: (1) the awarding of any federal contract; (2) the making of any federal grant; (3) the making of any federal loan; (4) the entering into of any cooperative agreement; and, (5) the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

Debarred or Suspended: Contractors that have been “debarred or suspended” have been declared ineligible, on the basis of statutory or other regulatory procedures, and are excluded from receiving contracts, and if applicable, subcontracts from the federal government.

Designated Recipient: (A) an entity designated, in accordance with the planning process under S. 5303 and S. 5304, by the governor of a state, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under

Module 2.2: Legal Authority and Annual Certifications



S. 5336 to urbanized areas of 200,000 or more in population; or (B) a state or regional authority, if the authority is responsible under the laws of a state for a capital project and for financing and directly providing public transportation.

Lobbying: making any communication to or appearance before 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 covered federal action.

Local Governmental Authority: includes a political subdivision of a state; an authority of at least one state or political subdivision of a state; an Indian tribe; and a public corporation, board, or commission established under the laws of a state.

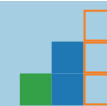
Master Agreement: The FTA official document containing FTA and other cross-cutting federal requirements applicable to the FTA recipient and its project(s). The Master Agreement is generally revised annually in October. The Master Agreement is incorporated by reference and made part of each FTA grant,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

Rural / Other than Urbanized / Nonurbanized Area: any area outside of an urbanized area. The term “nonurbanized area” specifically means an area encompassing a population of less than 50,000 people that has not been designated in the most recent decennial census as an ‘urbanized area’ by the Secretary of Commerce.

Subrecipient: an entity that receives FTA funds via a pass-through agreement with a direct recipient or designated recipient, whereby the original recipient remains responsible for compliance with all terms, conditions, and requirements associated with the grant. A state’s FTA subrecipients are typically local governmental authorities, private nonprofit organizations, and operators of public transportation.

Urbanized Area (UZA): an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an “urbanized area” by the Secretary of Commerce. Small urbanized areas as used in the context of FTA formula grant programs are urbanized areas with a population of at least 50,000 but less than 200,000, while large urbanized area have with a population of 200,000 or more individuals.

Module 2.2: Legal Authority and Annual Certifications



SUMMARY OF FTA REQUIREMENTS

Subrecipient Legal Authority

States are the designated recipient for FTA funds under:

- S. 5311
- S. 5310 for rural and small urbanized areas (states can be the designated recipient for large urbanized areas as well)
- S. 5307 for small urbanized areas (some states)

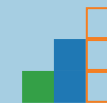
Local subrecipients must be eligible and authorized under state and local laws to request, receive, and dispense FTA funds and administer FTA-funded projects. The authority to take necessary action and responsibility on behalf of the grantee must be properly delegated and executed.

For S. 5310 and S. 5311, each state establishes its own criteria for what constitutes eligibility/authority to receive and administer funds, within the limits of FTA-established eligibility restrictions for each program. States typically verify eligibility for the particular program, such as requiring documentation of nonprofit status, as part of their subrecipient grant applications. Consult your S. 5310 and S. 5311 State Management Plans as well as the application packages to learn your state's program eligibility requirements for these programs.

For S. 5307, each recipient must have an authorizing resolution that identifies the individuals authorized to act on its behalf. In general, the authority of those officials acting on behalf of a public body grant applicant must be demonstrated by a resolution from the governing body of the grant applicant, a statute, or an ordinance showing that the grant applicant has authority to file an official grant application, showing who has the authority to act on behalf of the applicant, and supporting the application. A certified copy of the authorizing resolution is required for all FTA S. 5307 recipients.

FTA only requires the authorizing resolution to be submitted prior to the grant applicant's first application. For subsequent grant applications, FTA relies on the annual certifications and assurances. To meet this requirement, an authorized person should have signed the Annual Certifications and Assurances (discussed later in this module) and the grantee should have attached an Opinion of

Module 2.2: Legal Authority and Annual Certifications



Counsel (signed by their attorney) affirming their legal authority. The annual assurances must also include the date of the grantee's authorizing resolution and the location where it is on file.

Role of the Governing Body and Advisory Committee

A noted earlier, the authorizing resolution for S. 5307 recipients must be from the governing body of the grant applicant, a statute, or an ordinance.

Certain FTA-required policies and programs, such as Drug and Alcohol, EEO, and Title VI, are required to be adopted by the governing body of each subrecipient.

Although not required by FTA, a recommended practice is that each S. 5307 and 5311 subrecipient have an ongoing advisory committee to serve in an advisory capacity for planning FTA-funded service and policy changes. For public transit programs, the committee should include representatives of human service agencies, municipal and county government, private transportation providers, the business community, current customers, and the community at large, including individuals with disabilities. It is also recommended that the committee membership represent the diversity in the local community, including minorities and low income members. Such a committee can play an important role in fostering coordination among specialized transportation providers as well as in the public participation efforts of the subrecipient, and can assist the public transit system by playing an advocacy role in the community. Meetings should be open to the public and minutes should be kept of all advisory committee meetings.

Subrecipient Certifications and Assurances

Before FTA may award federal funding, an applicant must provide to FTA all certifications and assurances required by federal laws and regulations. This is required of all states, and the states in turn pass on the requirement to their subrecipients, typically as part of the grant application.

Near the beginning of each federal fiscal year, FTA publishes the certifications in the *Federal Register*, highlighting any changes or additions from the previous year. FTA sometimes publishes the certifications and assurances on the same date the formula apportionments are published.

Module 2.2: Legal Authority and Annual Certifications



The authorized representative of the recipient must make the requisite certifications. The person signing the annual certifications should be the same person/position/title designated in the transit agency's authorizing resolution.

For S. 5307 recipients, FTA requires a current attorney's affirmation of the recipient's legal authority to certify compliance with that fiscal year's FTA funding assistance.

Suspension/Debarment

Federal rules impose a statutory requirement on FTA grantees to award contracts made with FTA assistance only to responsible contractors—this applies also to your award of a grant to your subrecipients. To prevent fraud, waste, and abuse in federal transactions, persons or entities which, by defined events or behavior, potentially threaten the integrity of federally administered non-procurement programs are excluded from participation in FTA-assisted programs.

FTA grantees and subrecipients are required to certify that they are not excluded from federally-assisted transactions. The grantees comply with this requirement in their annual certifications and assurances with the Debarment/Suspension certifications. By signing the annual certification, a grantee certifies that the grantee and its principals and subrecipients have not been suspended from federally-assisted transactions.

Each grantee is also required to ensure, to the best of its knowledge and belief, that none of its principals, affiliates, third party contractors, and subcontractors is suspended, debarred, ineligible, or voluntarily excluded from participation in federally assisted transactions or procurements. FTA requires grantees to review the System for Award Management (SAM) before entering into any third party contract expected to equal or exceed \$25,000. Thus, this requirement also must be reviewed as part of the grantee's procurement process. A good practice is for the grantee to print the screen with the results of the search to include in the grant or procurement file. *[Prior to the implementation of SAM, grantees were required to check the excluded parties listing system (EPLS).]*

2 CFR Part 180 defines a principal as an officer, director, owner, partner, principal investigator, or other person with management or supervisory responsibilities related to a covered transaction. The grantee should have a similar review process for its principals as it does for its contractors and subrecipients regarding suspension and debarment.

Module 2.2: Legal Authority and Annual Certifications



Lobbying Restrictions

The use of federal funds for lobbying is prohibited. Recipients (and their contractors and subrecipients) receiving federal grants and contracts over \$100,000 must certify compliance with this restriction. Section 3.d(1) of FTA's Master Agreement states that recipients shall not use federal funds to influence or attempt to influence a federal agency officer/employee, member/officer/employee of Congress, or employee of a member of Congress. The restriction applies to "covered federal actions:" the awarding or making of contracts, grants, loans, and cooperative agreements, as well as their extension, continuation, renewal, amendment, or modification.

Recipients of federal grants and contracts exceeding \$100,000 must certify that they have not and will not make prohibited payments (i.e., paying a lobbyist with federal funds). In the procurement process, recipients are also required to include the lobbying certification in all contracts and procurement solicitations that would exceed \$100,000. The lobbying certification does not apply to Indian tribes or tribal organizations.

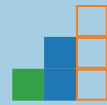
Recipients *are* permitted to hire a third party (a lobbyist) if they pay for the services with non-federal funds. However, they must submit a disclosure form to FTA, the Standard Form LLL. The form must be submitted every quarter in which lobbying takes place, or every quarter in which there are any changes in the nature of the lobbying activity. This includes a \$25,000 or more increase in lobbying activity, a change in the individual who is engaging in the lobbying, or a change in the target of the lobbying. For example, if the lobbyist begins targeting a different member of Congress, the recipient must update this information on the Standard Form.

Recipients do not need to disclose lobbying activities undertaken by their own employees, as long as the employees only receive reasonable compensation (defined as compensation that is consistent with an employee's normal compensation).

Employees are also permitted to conduct "agency and legislative liaison activities" that are not related to a specific solicitation, or that occur prior to formal solicitation of covered federal actions. An example of these activities is having a technical discussion with FTA about possible services.

States as FTA recipients must obtain signed certifications from their subrecipients and contractors. If applicable, they must also obtain the Standard Form LLL and/or the quarterly update from subrecipients and contractors. This means that states are responsible for

Module 2.2: Legal Authority and Annual Certifications



ensuring that subrecipients file certifications and disclosure forms, as well as filing for themselves, and also that subrecipients pass the requirements on to their contractors and subcontractors for awards exceeding \$100,000.

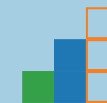
For both the employees of recipients and others that recipients hire (most likely consultants or trade association representatives), the prohibition does not apply to payments for professional or technical services needed to prepare, submit, or negotiate a bid, proposal, or application. For example, a lawyer can provide legal advice related to his or her client's proposal, but cannot "generally advocate one proposal over another" [49 CFR 20.205].

The restriction on lobbying comes with penalties. Each use of federal funds for lobbying and each failure to file the disclosure form may result in a fine between \$10,000 and \$100,000. The amount depends on the nature of the violation and if the recipient is a first time offender.

State Oversight of Compliance with Lobbying Restriction

- States should educate subrecipients on FTA lobbying restrictions and be able to answer questions on what a subrecipient needs to do to comply with FTA requirements.
- States must monitor subrecipient funding levels and contract dollar amounts awarded by subrecipients to determine which subrecipients/subrecipient contracts meet the \$100,000 threshold.
- States must obtain lobbying certifications from all subrecipients meeting FTA thresholds and maintain on file. *[Some states may require lobbying certifications from other subrecipients, or all subrecipients as part of the grant application package. State DOT staff should be aware when the state requirements are more conservative than FTA requirements in this regard.]*
- Further, states must require the Standard Form LLL from subrecipients who use non-federal funds for lobbying, and forward these forms to FTA.
- States should include review of the subrecipient's lobbying certification, as well as Standard Form LLL if applicable, as part of compliance reviews of subrecipients conducted by the state. States should also review the subrecipient's documentation of contractor certifications and the Standard Form LLL if applicable.

Module 2.2: Legal Authority and Annual Certifications



SUPPLEMENTAL NOTES

The failure to obtain lobbying certifications from subrecipients is a widely reported State Management Review and Triennial Review finding. Recipients may also be cited for providing insufficient oversight, having an outdated Standard Form LLL, or not including the certification in agreements/procurement solicitations. In August 2012, FTA issued a Dear Colleague Letter on the subject.

TIPS ON RELATIONSHIPS TO OTHER MODULES

See the Procurement Module for details on the suspension/debarment and lobbying certifications in procurement documents, as well as information on the System for Award Management (SAM).

LINKS/INFO

Subrecipient legal authority

- S. 5307, 5310, 5311 Program Circulars. <http://www.fta.dot.gov/about/13716.html>

Subrecipient certifications and assurances

- S. 5307, 5310, 5311 Program Circulars. <http://www.fta.dot.gov/about/13716.html>
- FTA Certifications and Assurances. <http://www.fta.dot.gov/grants/13071.html>

Module 2.2: Legal Authority and Annual Certifications



Role of the Governing Body and Advisory Committee

- Boards That Perform, National Rural Transit Assistance Program module (2008).
http://web1.ctaa.org/webmodules/webarticles/articlefiles/BoardsThatPerform_v5_WEB.pdf

Suspension/Debarment

- 20 CFR 180, “OMB Guidelines to Agencies On Governmentwide Debarment and Suspension (Nonprocurement).”
<http://www.ecfr.gov>.
- System for Award Management (SAM). www.sam.gov

Lobbying

- 49 CFR 20, “New Restrictions on Lobbying.” <http://www.ecfr.gov>.
- Certification Regarding Lobbying. See 49 CFR 20, Appendix A.
- FTA Master Agreement Section 3.d(1). <http://www.fta.dot.gov/documents/19-Master.pdf>.
- Disclosure of Lobbying Activities (Standard Form LLL). <http://www.whitehouse.gov/sites/default/files/omb/grants/sfillin.pdf>.
- Dear Colleague Letter, “Certifications and Disclosure of Lobbying Activities.” August 17, 2012. http://www.fta.dot.gov/newsroom/12910_14790.html.

Module 2.2: Legal Authority and Annual Certifications



QUIZ

1. When does FTA require an authorizing resolution to be submitted by a subrecipient to a state?

- A) Annually
- B) Prior to the grant applicant's first application
- C) Whenever the grantee applies for a new FTA program
- D) Never

1) A. 2) B, but only for S. 5307 recipients. 3) B & C. 4) D.

2. FTA requires an ongoing advisory committee for S. 5311 subrecipients.

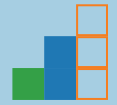
- 1) True. 2) False.

3. For which grant program does FTA require a current attorney's affirmation of the subrecipient's legal authority?

- A) S. 5307
- B) S. 5310
- C) S. 5311

1) A. 2) A & C. 3) all of the above. 4) none of the above.

Module 2.2: Legal Authority and Annual Certifications



4. Suspension and debarment exclusions are limited to procurement transactions.

1) True. 2) False.

5. Which entity is required to include the lobbying certification in agreements and procurement solicitations?

- A) A recipient of federal grants and contracts totaling \$75,000.
- B) A tribal organization.

1) A. 2) A & B. 3) Neither.

6. The state DOT is responsible for ensuring that its subrecipients and contractors comply with lobbying requirements..

1) True. 2) False.

7. Under what circumstances would a recipient NOT need to file a disclosure form?

- A) The recipient had a cumulative increase in lobbying payments of \$10,000 in the past quarter.
- B) The recipient's lobbyist began targeting a new member of Congress.
- C) The recipient's employee had technical discussions with FTA representatives that were unrelated to a specific contract, grant, loan, or cooperative agreement.

1) A & B. 2) A & C. 3) B & C.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.3: FTA Grant Administration



INTRODUCTION

This module addresses the FTA grant administration requirements in terms of how states interface with FTA. The basic requirements are that the state must develop an annual program of projects, track and report on the progress of projects, report to the National Transit Database, and close out projects and grants when project activity is completed.

It is useful to remember when reviewing this chapter that states have two major roles in administering and managing grants: 1) the grantee to FTA, and 2) the grantor to sub-recipients. State-to-subrecipient grant administration requirements are addressed in the next module in this curriculum.

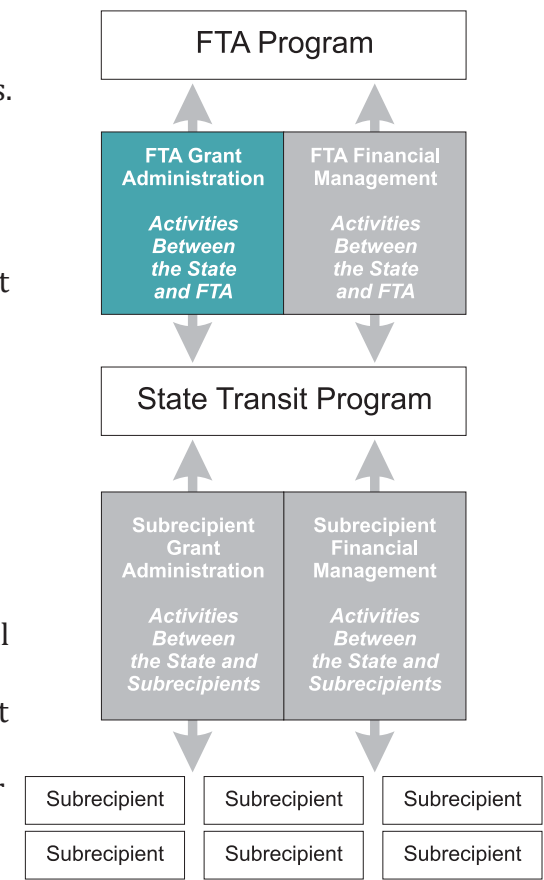
Grant administration is closely related to financial management, as illustrated in the diagram to the right. New state staff should review this module before proceeding to Subrecipient Grant Administration or either of the financial management modules.

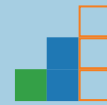
KEY CONCEPTS

- Interfacing with FTA
- Life Cycle of Grant
- State Management Plans
- Program of Projects
- Grant Application Process
- Using TEAM-Web
- Milestone Progress Reports
- National Transit Database
- Grant Modifications
- Grant Close-Out

The statutes and regulations governing grants administration and financial management requirements include:

- Federal Transit Laws, Title 49, USC, Ch. 53
- 2 CFR Part 225 (OMB Circular A-87), “Cost Principles for State, Local, and Indian Tribal Governments”
- 2 CFR Part 230 (OMB Circular A-122), “Cost Principles for Non-Profit Organizations”
- 31 CFR Part 205, “Rules and Procedures for Efficient Federal-State Funds Transfers”





Module 2.3: FTA Grant Administration

- 49 CFR Part 18, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments”
- 49 CFR Part 630, “Uniform System of Accounts and Records Reporting System”
- 51 CFR 552, “Federal Agencies Responsible for Cost Negotiation and Audit of State and Local Government”
- Office of Management and Budget Open Government Directive - Federal Spending Transparency
- P.L. 109-282 Federal Funding Accountability and Transparency Act of 2006

Key guidance documents are:

- FTA Master Agreement, Sections 4 - 12
- FTA C 5010.1D - Grant Management Requirements
- FTA grant program-specific circulars
- National Transit Database Reporting Manual (www.ntdprogram.gov)
- FTA TEAM-Web User Guide (<http://ftateamweb.fta.dot.gov/static/userguide.html>)

IMPORTANCE FOR STATE DOT STAFF

The FTA grants to your agency need to be managed in order for you, the state, to fund local transit systems. There may be only a few (or one) person in your agency that handles this function as it is fairly specialized. Even if you are not one of those people, it is useful to understand this function and how it is handled within your agency. This is especially true if you have responsibilities with respect to local transit agencies since the FTA grants requirements affect how you will manage how funds flow and are used by your subrecipients.

Further, a state may be cited as deficient in a State Management Review (SMR) if FTA grant funds allocated to the state are not spent during their period of availability. Such grants may be subject to grant close-out so that the funds can be de-obligated and redistributed to other states. If a state does not allocate Section 5310 and 5311 funding to specific projects before the end of the period of availability (referred to as “lapsed Category C funds”), these funds will be de-obligated by FTA. In the simplest terms, states should “use it or lose it.”

Module 2.3: FTA Grant Administration



States may also be found deficient in a SMR if they do not: submit timely, accurate, and complete reports to FTA; reconcile data in MPRs with FFRs; allocate funds during their period of availability; or initiate grant close-out on a timely basis.

DEFINITIONS

Program of Projects (POP): A list of projects to be funded in a grant application submitted to FTA by a state or designated recipient. The POP lists the subrecipients and indicates what type of organization they are, a brief description of each project, total project cost, and federal share for each project.

TEAM: FTA's current web-based Transportation Electronic Award and Management system (in use at the time this curriculum was developed). TrAMS is anticipated to replace TEAM beginning in FY 2015. Among other things, grantees apply for grants, inquire about the status of grants, file the required financial report and milestone progress reports, and submit annual Certifications and Assurances in TEAM.

TrAMS: FTA's forthcoming new web-based Transportation Transit Award and Management system, which is anticipated to replace TEAM beginning in FY 2015.

SUMMARY OF FTA REQUIREMENTS

Interfacing with FTA

The primary mechanism with which states interface with FTA is FTA's web-based grants management system. At the time this curriculum was developed, the system in use is TEAM (Transportation Electronic Award and Management system). However, TEAM will be replaced by TrAMS. FTA anticipates that TrAMS will go live in October beginning in 2014, thus replacing TEAM beginning in FY 2015, with each state's electronic records from TEAM migrated into TrAMS. Among other things, grantees apply for grants, inquire about the status of grants, file the required financial report and milestone progress reports, and submit annual Certifications and Assurances in TEAM/TrAMS. When a state staff member needs to interface with a live human being at FTA, this is typically through the FTA Regional Office.

Module 2.3: FTA Grant Administration



Life Cycle of a Grant

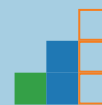
Each FTA grant has a life cycle, which is useful to understand before getting into the grants management requirements that apply to various stages of the cycle. An overview of the FTA-to-state grant life cycle is provided in the text box to the right.

State Management Plans

States must develop and submit a State Management Plan (SMP) to the FTA for the S. 5310 and S. 5311 programs (either stand-alone plans or combined). The SMP details the policies and procedures used to administer the programs. The SMP must be current and reflect actual practices, and include the elements outlined in the program circulars. [States will soon need to update their SMPs for MAP-21; at the time this curriculum was drafted, FTA had issued proposed updated circulars for S. 5310 and S. 5311.] For all significant revisions (i.e., changes in policy that impact subrecipients), FTA requires an opportunity for public comment.

The Life of a Grant

1. **Planning** - Before a state can even apply for FTA funding, it must go through a planning process to identify the projects it proposes to conduct using FTA funding. As a key part of the planning process, local subrecipients apply to the state. The state must determine which local subrecipient projects it plans to fund before the state can apply for FTA funding for these projects. States typically conduct the local process annually or biennially.
2. **Program of Projects (POP)** - The state develops an annual program of projects (POP). The POP is a compilation of all of the subrecipient projects planned under each FTA funding program, as well as state-level projects, and provides the basis for the state's annual funding application.
3. **Applying to FTA** - The state applies for FTA funding through FTA's web-based grants management system (beginning in FY 2015, TrAMS; until then, TEAM).
4. **FTA Grant Award and Execution** - For each FTA program (S. 5310, S. 5311, etc.), FTA awards a single annual grant to the state. Both parties execute the grant agreement.
5. **State Management of Grant** - Once the grant has been awarded and executed, the grant is now active, and state-level activities can begin that can be reimbursed with grant funding. Throughout a grant's active life, the state must submit milestone progress reports (MPRs) and financial reports (FFRs) to FTA.



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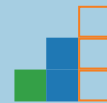
By explaining (among many other subjects) its processes for enforcement, oversight, and technical assistance, the SMP serves as a guide for subrecipients. Importantly, states use the SMP to outline their methods and criteria for subrecipient project selection. The state must distribute FTA funding on a fair and equitable basis, meaning that all potential subrecipients have a fair opportunity to demonstrate how they meet the stated criteria.

Program of Projects

Each state prepares an annual program of projects (POP) for each FTA program it administers and submits to FTA. The POP essentially serves as the scope of projects to be funded within each FTA grant to the state and constitutes the scope of the annual grant application to FTA. The POP identifies the subrecipients and indicates what type of organization they are, provides a brief description of each project (including their geographic coverage and any tribal transportation needs served), total project cost, and federal share for each project, as well as the amount of funds the state plans to use for state program administration.

Each FTA program has program-specific requirements regarding public involvement and consultation with interested parties when developing the POP, which are summarized in the following table:

FTA and its grantees must comply with the Federal Funding Accountability and Transparency Act (FFATA) of 2006, Pub. L. 109-282, enacted September 26, 2006. In order to do so, grant recipients must provide FTA with the following information for any subrecipient: the name of the entity receiving the award, the amount of the award, the location of the entity receiving the award, and the primary location of performance under the award, including the city, state, and congressional district. The grant recipient is required to submit this information and may choose to submit it as a separate attachment in the FTA Electronic Grants Management System or include the information in the POP.



Module 2.3: FTA Grant Administration

<i>FTA Program</i>	<i>POP Development Requirements</i>
S. 5307 and S. 5339	<p>Either the designated recipient for a UZA or each individual direct recipient is required to:</p> <ol style="list-style-type: none"> (1) Make available to the public information concerning the amount of funds available under the S. 5307 Program and the POP that the recipient proposes to undertake with such funds; (2) Develop a proposed POP for activities the designated recipient will finance, in consultation with interested parties, including private transportation providers (and, per the proposed S. 5307 circular, human services organizations representing the employment-related transportation needs of welfare recipients and low-income individuals); (3) Publish the proposed POP in sufficient detail and in such a manner as to afford affected citizens, private transportation providers, representatives of welfare recipients and low-income individuals, and, as appropriate, local elected officials, reasonable and adequate opportunity to examine the proposed program and to submit comments on the proposed program and on the performance of the recipient; (4) Provide an opportunity for a public hearing in which to obtain the views of individuals on the proposed POP; (5) Ensure that the proposed POP provides for the coordination of S. 5307 public transportation services with transportation services assisted from other federal sources; (6) Consider comments and views received, especially those of private transportation providers, in preparing the final POP; and (7) Make the final POP available to the public. (The proposed circular notes that where there are multiple designated recipients and/or multiple MPOs, this public participation requirement may be met in several separate process for the different areas involved. More information on the requirements related to the MPO process and coordinated planning, refer to the Local and Regional Planning module of this curriculum or the FTA circular.)
S. 5310	<p>The S. 5310 POP must contain an assurance that the program provides for the maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other government sources. Projects selected for funding under must be included in a locally developed, coordinated public transit-human service transportation plan that was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, nonprofit transportation and human service providers, and other members of the public. This coordinated transportation plan should be prepared through a process that is consistent with the applicable metropolitan or statewide planning process. The POP must be consistent with listings contained in the applicable TIP and STIP.</p>



Module 2.3: FTA Grant Administration

<i>FTA Program</i>	<i>POP Development Requirements</i>
S. 5311	A state's S. 5311 POP must provide for fair and equitable distribution of funds in the state, including Indian reservations, and provide for maximum feasible coordination with transportation services assisted by other federal sources. If the state does not plan to spend at least 15 percent of its annual S. 5311 apportionment for rural intercity bus service (S. 5311(f)), it must first consult with intercity bus providers and determine that the intercity bus service needs of the state are being met adequately. The S. 5311 POP must be a product of the statewide and nonmetropolitan transportation planning process and/or the metropolitan planning process and included in the STIP.

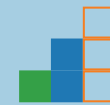
FTA allows states to submit grant applications that include subrecipient projects at various stages of compliance with applicable federal requirements. There are three possible categories or projects, discussed in further detail later in this module:

- A. Projects in the grant application that have met all federal applicable requirements are approved unconditionally as Category A.
- B. Projects that have not met all requirements are approved in Category B and funds cannot be disbursed for these activities until requirements are met. The state must notify FTA when projects move from Category B into Category A.
- C. Projects/activities that have not yet been determined by the state are in Category C. Only S. 5310 and S. 5311 allow the usage of Category C, and no funds should remain in Category C after the period of availability. The state must notify FTA when projects move from Category C into Category A. **[Note that the 2013 proposed circulars for S. 5310 and S. 5311 do not include Category C, so this category may be eliminated once the circulars are finalized.]**

Grant Application Process

FTA's program-specific circulars describe the grant application process and requirements for each program. States should refer to these circulars for instructions for completing a grant application, which is submitted electronically through the web-based TEAM or TrAMS system. FTA notifies states by phone or e-mail of grant approval. States also can check the status of grant applications in TEAM/TrAMS to determine when it has been awarded. The FTA grant agreement includes the notification of award and the approved project budget.

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Once the state receives the notification of grant award, the state executes the grant in TEAM/TrAMS. The electronic execution of the FTA grant agreement signifies the grant is active. At this point, the state can execute its subrecipient grant agreements for those projects that it has certified as having met all the applicable federal statutory and administrative requirements (both for the project activities and for the subrecipient that will carry out those activities).

FTA allows pre-award authority whereby a state can incur costs toward a grant if the project is programmed in the current federally approved State Transportation Improvement Program (STIP) and funds have been appropriated. However, it is the state's discretion whether it allows its subrecipients to utilize this pre-award authority provision.

Pre-Grant Application State Planning Requirement

All FTA funded projects must be included in the current year of the federally approved STIP. The STIP is a programming document that is developed through the local and statewide planning process and lists projects slated for funding. No project may receive federal funding unless it is included in a current federally approved STIP. Projects selected for small urban areas under the S. 5307, S. 5310 and S. 5339 programs must also be included in the Metropolitan Transportation Improvement Plan (TIP) for the urbanized area.

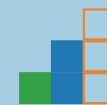
More information on state and MPO planning requirements is provided in the Local and Regional Planning module.

Grant Application Elements

The state's annual grant application for each program should be prepared in FTA's web-based TEAM/TrAMS system. The state applies directly to FTA for Sections 5307 (small urban only), 5310 (rural and small urban only, unless the state is the designated recipient for large urban as well), 5311, and 5339 funding and must prepare/submit specific elements that constitute a grant application. These include a POP, Project Budget, Milestones, Environmental Findings, and Warranty Letter to the Department of Labor (S.5311 only). The POP was explained above, and the remaining elements are explained below.

- **Project Budget** - The Project Budget includes activity lines for capital items, operating assistance, project administration, state administration, intercity bus projects, and RTAP activities. A state combines the various subrecipients' projects listed

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in the POP into standard activity line items (ALIs). The activity line should include federal and total costs, quantities of revenue rolling stock, and a brief description of the activity. For example, all operating assistance funds requested by the various subrecipients listed in the POP would be tallied in one operating assistance activity line item. See the FTA Financial Management module for more information on budgeting.

- **Milestones** - These indicate significant project events and estimated completion dates for each activity line item. If milestones are not pre-populated by the TEAM system for a particular ALI, use the add function to add milestones for the ALI to the grant application.
- **Environmental Findings** - FTA's environmental impact regulation requires different levels of analysis and documentation according to the type of project. The majority of projects under these programs will have minimal environmental impacts and are therefore considered categorical exclusions under 23 CFR 771.117(c).
- **Fleet Status** - Fleet status data is not required for S. 5310 grant applications. (The application requirements for this element with regards to the MAP-21 asset management requirements have not yet been determined. States should consult with the current version of TEAM or TrAMS.)
- **Department of Labor (DOL) Warranty for S. 5311 Only** - Non-Urbanized Area grants are covered by a special warranty that protects the interests of employees that may be affected by FTA funded projects. States are required to submit a letter to DOL regarding subrecipient signing of the warranty and labor union information.

FTA Categories of Approval

After the state submits the annual POP and other application requirements, FTA will review, approve, and obligate funds for the total amount of funds available.

FTA's approval of a POP does not reflect unconditional approval of all projects and/or subrecipients identified in the program. Because projects in a state's POP may be at the different stages of development, and subrecipients may not be fully in compliance with all

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applicable federal requirements, not all applications to the state may be complete at the time the state forwards its annual program of projects to FTA. To expedite grant award, FTA allows states to separate projects and funds included in its POP into three different categories, depending on how completely the subrecipients have met federal requirements.

- **Category A.** Projects in Category A include those projects that the state has certified as having met all the federal statutory and administrative requirements for approval applicable to both the project activities, and to the subrecipient that will carry out those activities. FTA's approval of Category A projects is unconditional upon grant award. When FTA executes the grant, the state may start drawing down funds to implement projects in Category A. FTA expects most, if not all, of the projects included in the state's POP to be in this category.
- **Category B.** Projects in Category B include those projects that the state anticipates approving during the current year, but that have not yet met all federal statutory and/or administrative requirements. For example, a facilities project in Category B may be a project that lacks completion of the environmental review process. Projects may also be in Category B when a subrecipient has not yet met all applicable federal requirements.

FTA reserves the right to require the state to defer providing funds to a subrecipient or project that raises serious questions about compliance with civil rights or other requirements, until FTA finds the subrecipient or project in compliance or expressly approves the expenditure of funds involving that subrecipient or project. When the state determines that necessary federal requirements have been satisfied for a project, FTA's approval of that project becomes unconditional, and the state may advance the project to Category A. Cash drawdowns for that project may commence after the state advances the project to Category A. In addition, any Category B project that does not qualify as a categorical exclusion (CE) under 23 CFR 771.117(c) requires environmental clearance from FTA before being advanced to Category A.

- **Category C.** The state may include S. 5310 and S. 5311 funds in Category C to assist projects that it has not yet identified at the time it submits its grant application. Category C represents a "program reserve" unique to the S. 5310 and S. 5311 programs. It is designed to allow the state to obligate its entire apportionment in one grant, even if the funds are not completely programmed. The state should not use Category C funds for project contingencies; these should be programmed in Category A or B. Category C funds may, however, supplement previously identified projects where original cost estimates were inadequate.

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Once funds have been programmed in Category A or B, they should not be reprogrammed as Category C. **[Note that the 2013 proposed circulars for S. 5310 and S. 5311 do not include Category C, so this category may be eliminated once the circulars are finalized.]**

The state may not include more than 10 percent of the total amount it obligates in the S. 5310 or S. 5311 grant in Category C. FTA expects the state to allocate all funds in Category C to either new approvable projects or to budget adjustments in existing Category A and B projects within 12 months of grant approval. If the state does not expect to program the funds within that time period, obligation should be deferred until the following year. If Category C funds are not allocated within the period of availability, FTA will deobligate and redistribute the funds to all states.

When a state selects projects it will advance out of the Category C program reserve funds, it must notify FTA of the changes to the program of projects. Any new project that does not qualify as a CE under 23 CFR 771.117(b) requires environmental clearance from FTA before the state advances the project to Category A.

Using TEAM-Web

The TEAM User Guide can be found at FTA's website in the "Grants and Financing" section under "Apply for and Manage Grants" located at: <http://ftateamweb.fta.dot.gov/static/userguide.html>.

However, as noted at the beginning of in this module, TEAM will soon be replaced by TrAMS. FTA anticipates that TrAMS will go live in October beginning in 2014, thus replacing TEAM beginning in FY 2015, with each state's electronic records from TEAM migrated into TrAMS. A TrAMS user guide is likely to be made available through the FTA website when this transition happens.

Milestone Progress Reports

The state has ongoing reporting requirements for each active grant, including a Federal Financial Report (FFR) and the Milestone/Progress Report (MPR) submitted annually or quarterly, depending upon the specific grant. General due dates are indicated following the descriptions of the FFR and MPR.

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FTA reporting requirements may vary depending on the size of the grantee, the type of funding, or the amount of funding a grantee receives. FTA uses these reports to monitor grant status and compliance elements, such as:

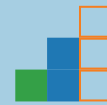
- The purposes of the grant are being achieved;
- The project is progressing on time and within budget;
- The grantee is demonstrating competence and control in executing the project;
- The project meets all program requirements;
- Any problems developing that may require FTA resources to resolve.

The state should have procedures for coordinating the development of and reconciling the data in MPRs and FFRs before submitting them to FTA, and follow these procedures.

The FTA requirements for FFRs are described in the FTA Financial Management module, and for the MPRs are described below. The MPR is the primary written communication between the grantee and FTA. For each active/executed grant, the state must submit an MPR that accompanies the FFR. This report is submitted electronically in TEAM/TrAMS, by the due dates described below.

Section 5305, 5307, and 5309 MPRs must include:

1. Current status of each open activity live item (ALI) within the active/executed grant.
2. A narrative description of projects, status, any problems encountered in implementation, specification preparation, bid solicitation, resolution of protests, and contract awards. With respect to the level of detail required for these reports, FTA treats all approved activity line items (ALIs) alike. Thus, an activity contained in a grant must be presented in the reports in sufficient detail that important information is not lost in aggregation. For example, the number of full-sized buses in a grant must not be reported together with vans under the scope “rolling stock,” but instead should be reported separately under the applicable ALI.
3. Detailed discussion of all budget or schedule changes.
4. The dates of expected or actual requests for bid, delivery, etc. (If only operating assistance is included in the grant, the reporting requirements are limited to the estimated and actual dates when all funding has been expended.)



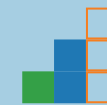
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5. Actual completion dates for completed milestones.
6. Revised estimated completion dates when original estimated completion dates are not met.
7. Explanation of why scheduled milestones or completion dates were not met. Identification of problem areas and narrative on how the problems will be solved. Discussion of the expected impacts and the efforts to recover from the delays.
8. Analysis of significant project cost variances. Completion and acceptance of equipment and construction or other work should be discussed, together with a breakout of the costs incurred and those costs required to complete the project. Use quantitative measures, such as hours worked, sections completed, or units delivered.
9. A list of all outstanding claims exceeding \$100,000, and all claims settled during the reporting period. This list should be accompanied by a brief description, estimated costs, and the reasons for the claims.
10. A list of all potential and executed change orders and amounts exceeding \$100,000, pending or settled, during the reporting period. This list should be accompanied by a brief description.
11. A list of claims or litigation involving third party contracts and potential third party contracts that:
 - a. Have a value exceeding \$100,000,
 - b. Involve a controversial matter, irrespective of amount, or
 - c. Involve a highly publicized matter, irrespective of amount.
12. A list of all real property acquisition actions, including just compensation, property(s) under litigation, administrative settlements, and condemnation for each parcel during the reporting period.

Section 5310 and 5311 MPRs must include:

- a. Updated POPs that contain active projects reflecting revised project descriptions, changes in projects from one category to another, and adjustments within budget categories.
- b. Revised milestones for activity line items (ALIs) that require milestones with grant submission (vehicle procurements, construction projects, and program reserve) and, for revised estimated completion dates, an explanation for the revision.
- c. Budget revisions for changes in line item budgets.
- d. Significant civil rights compliance issues.
- e. Additional information requested by the regional office.

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If necessary, attachments can accompany FFRs and MPRs by using the “paperclip” feature in TEAM. (TrAMS will also have document upload capability.)

FFR/MPR Reporting Due Dates

- For each open state S. 5309 grant that includes construction of a facility, the FFR and MPR are due quarterly, no later than 30 days after the end of each federal fiscal quarter (i.e., by January 30, April 30, July 30, and October 30).
- For all other open state grants, the FFR and MPR are due annually by October 31st for the preceding Federal Fiscal Year (October 1- September 30).
- Reports are due even when there is no grant activity.
- FTA may withhold payment for failure to submit either FFRs or MPRs in a timely manner. In individual cases, FTA may grant extensions of report due dates for good cause.

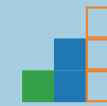
National Transit Database

The National Transit Database (NTD) is FTA’s primary national database for statistics on the transit industry. Recipients of FTA S. 5311 grants are required to submit an annual NTD report for all S. 5311 beneficiaries and subrecipients. [This requirement also applies to recipients of Congestion Mitigation and Air Quality Improvement Program (CMAQ) and Surface Transportation Program (STP) funds that are “flexed” into the 5311 program.]

The report due date is tied to the grantee’s fiscal year. NTD reports are typically due as follows:

<i>Fiscal Year End Date (Between)</i>	<i>NTD Report Due Date</i>
January 1 and June 30	October 31
July 1 and September 30	January 31
October 1 and December 30	April 30

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Subrecipients of FTA S. 5307 grants submit their NTD reports directly to FTA. FTA uses some of the validated data from the latest report year for S. 5307 formula apportionments. For purposes of the formula, FTA may not use data that is submitted late or data that it cannot validate.

Reporting instructions are provided annually on the NTD website at www.ntdprogram.gov.

Grant Modifications

After grant approval, the state can still make revisions to the POP and project budget. Grant modifications are electronically submitted, reviewed, and approved in TEAM/TrAMS. There are three ways to modify a grant after it has been awarded—either through a budget revision, an administrative amendment, or a grant amendment. Whether a budget revision may be permitted (with or without prior FTA approval before incurring costs) or whether an amendment to the project will be necessary, depends on the effect of the proposed change on the scope of the project.

Budget Revisions

Budget revisions may be made as long as there is no change in the grant purpose, project scope coding in TEAM/TrAMS, or Federal funding of the grant, regardless of the FY the funds were appropriated. Budget revisions are generally changes to ALIs amounts or descriptions. Budget revisions must be consistent with the activities contained in an approved TIP and STIP and satisfy applicable National Environmental Policy Act (NEPA) requirements. Useful life of new activities must be addressed in the budget revision, as applicable.

At any time, the states are allowed to make revisions to their Section 5310 and 5311 POP as long as the revisions do not constitute a change in the project scope (which would require the deobligation and reobligation of funds). Moving projects from Category C or B, reallocating funds within the approved POP, creating new capital or operating projects with funds from other projects in the approved POP, and allocating funds from Category C to new projects are allowable revisions. The scope of the grant is the approved POP in its entirety. The addition of federal funds to the approved POP is a change in the scope and requires an amendment of the grant agreement. Revisions that constitute a change in the project scope are only allowed during the period of availability.

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For changes that affect the budget line items in the grant budget, the grantee will notify FTA by setting up a budget revision in TEAM/TrAMS. For those changes that only affect the POP (and not the project scope), the grantee should attach a new POP to the “project management milestones” section and then notify FTA via e-mail. In addition, grantees should also notify FTA of changes to the POP when they submit their annual program status report.

Under certain circumstances, a grantee must obtain FTA approval before incurring costs for proposed budget revisions. For these grants, the proposed budget revision must be submitted in TEAM and approved before incurring costs associated with the budget revision. If FTA determines the proposed budget revision does not meet the budget revision criteria, alternate methods for modifying the grant, such as a grant amendment, may be recommended.

Administrative Amendments

An administrative amendment is a minor change in a grant agreement normally initiated by FTA to modify or clarify certain terms, conditions, or provisions of a grant.

Grant Amendments

A grant amendment is required when there is either a change in the scope or an addition of federal funds to an existing grant. One example of a change in scope would be changing the use of the grant from facility development to the purchase of vehicles. Grant amendments are subject to the same application requirements as a new grant request. All grant amendments are subject to DOL certification. For more information, including circumstances in which a budget revision requires FTA approval, see Chapter III of FTA C5010.1D. States should contact the FTA regional office for questions relating to grant modification requests, including which type of grant modification is appropriate for the proposed action.

Grant Close-out

States should close out their grants with FTA within 90 days of completion of program activity, following close out of all subrecipient projects. A final Financial Status Report (FSR), budget, and milestones report should be electronically submitted.

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TIPS ON RELATIONSHIPS TO OTHER MODULES

This module is very closely related to Subrecipient Grant Administration, FTA Financial Management, and Subrecipient Financial Management.

LINKS/INFO

- 49 CFR Part 18, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.” <http://www.ecfr.gov>
- Office of Management and Budget Open Government Directive - Federal Spending Transparency. http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_2010/m10-06.pdf
- P.L. 109-282 Federal Funding Accountability and Transparency Act of 2006. <http://www.gpo.gov/fdsys/pkg/PLAW-109publ282/pdf/PLAW-109publ282.pdf>
- FTA C 5010.1D - Grant Management Requirements. <http://www.fta.dot.gov/about/13716.html>
- FTA Grant program-specific circulars. <http://www.fta.dot.gov/about/13716.html>
- National Transit Database Reporting Manual. www.ntdprogram.gov
- FTA TEAM-Web User Guide. <http://ftateamweb.fta.dot.gov/static/userguide.html>
- FTA TEAM-Web Access Portal. <https://ftateamweb.fta.dot.gov/teamweb/>

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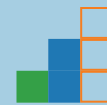
QUIZ

- 1. When amending the State Management Plans, for which program(s) does FTA require an opportunity for public comment for significant changes?**
 - A) S.5307
 - B) S.5310
 - C) S.5311

1) A. 2) B & C. 3) C. 4) none of the above.
- 2. A state that plans to spend more than 15 percent of its annual S. 5311 apportionment for rural intercity bus service (S. 5311(f)) must hold a public hearing on the S. 5311 POP.**

1) True. 2) False.
- 3. Projects in Category B include those projects that the state anticipates approving during the current year, but that have not yet met all federal statutory and/or administrative requirements.**

1) True. 2) False.



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4. Which of the following compliance elements does FTA use MMRs and FFRs?

- A) The purposes of the grant are being achieved;
- B) The project is progressing on time and within budget;
- C) The grantee is demonstrating competence and control in executing the project;
- D) The project meets all program requirements;
- E) Any problems developing that may require FTA resources to resolve.

1) A & B. 2) A, B & E. 3) all of the above. 4) none of the above.

5. Following close-out of all subrecipient projects, states should wait at least 90 days before initiating grant closeout.

1) True. 2) False.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.4: Subrecipient Grant Administration



INTRODUCTION

This module addresses FTA grant administration requirements related to allocating funds to subrecipients, subrecipient grant applications and agreements, subrecipient reporting requirements, and project/grant close out when project activity is completed, as well as the state's role in oversight of these requirement areas.

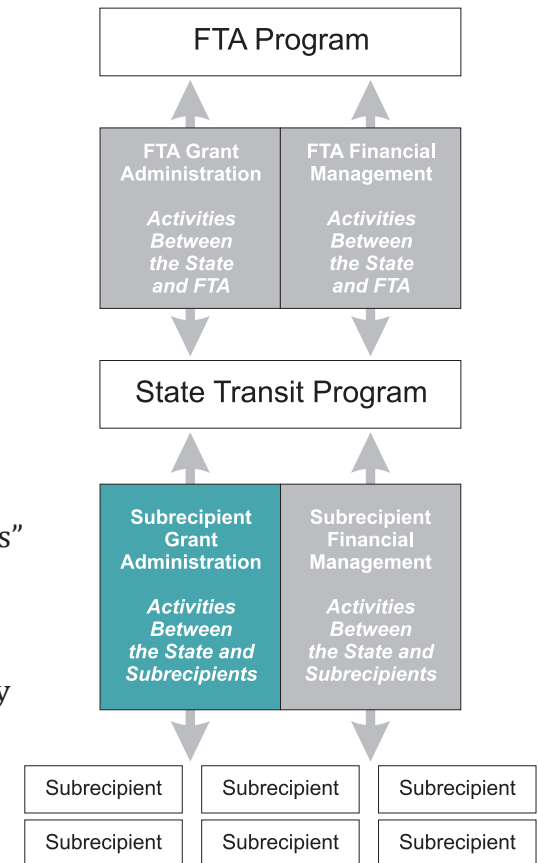
Prior to reviewing this module, it is recommended that state staff review the FTA Grant Administration module. Subrecipient grant administration is also closely related to financial management, as illustrated in the diagram to the right.

The statutes and regulations governing grants administration and financial management requirements include:

- Federal Transit Laws, Title 49, USC, Chapter 53
- 2 CFR Part 225 (OMB Circular A-87), "Cost Principles for State, Local, and Indian Tribal Governments"
- 2 CFR Part 230 (OMB Circular A-122), "Cost Principles for Non-Profit Organizations"
- 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"
- Office of Management and Budget Open Government Directive - Federal Spending Transparency
- P.L. 109-282 Federal Funding Accountability and Transparency Act of 2006

KEY CONCEPTS

- Subrecipient Grant Applications
- Subrecipient Funding Allocations/Project Selection
- Subrecipient Grant Agreements
- Subrecipient Reporting and Tracking
- Subrecipient Project Close-Out





Module 2.4: Subrecipient Grant Administration

Key guidance documents are:

- FTA Master Agreement
- FTA C 5010.1D - Grant Management Requirements (Rev. 1, August 27, 2012)
- FTA Grant program-specific circulars
- National Transit Database Reporting Manual (www.ntdprogram.gov)
- Your state's State Management Plan (SMP)
- Your state's subrecipient grant application package, policies, and procedures
- Your state's subrecipient grant agreements
- Other guidelines provided by your state to your subrecipients

IMPORTANCE FOR STATE DOT STAFF

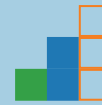
This function is important to you since it represents the core function of your division—making sure that your subrecipients, local transit agencies, have access to the federal dollars they need to provide public transit in their communities. Most state transit staff members are involved in this function at some level.

Further, your state may be cited as deficient in a State Management Review (SMR) if it does not comply with each FTA requirement. The state oversees its subrecipients, and is responsible for ensuring that subrecipient projects are completed on time and that data are reported as needed for the state's reports to the FTA.

DEFINITIONS

Please refer to the definitions in the FTA Grant Administration module.

Module 2.4: Subrecipient Grant Administration



SUMMARY OF FTA REQUIREMENTS

The Life of a Subrecipient Grant

Each FTA grant has a life cycle, which is useful to understand before getting into the grants management requirements that apply to various stages of the cycle. It is also useful to remember that states have two major roles in administering and managing grants: 1) the grantee to FTA (described in the FTA Grant Administration module), and 2) the grantor to subrecipients (described in this module). An overview of the state-to-subrecipient grant life cycle is provided in the following text box. The state's grants to subrecipients have their own life cycle embedded within the active FTA-to-state life cycle.

The Life of a Subrecipient Grant

- a. **Subrecipient Planning** - States generally require some type of planning activities from subrecipients. Requirements may vary by FTA program.
- b. **Subrecipient Application** - The state relies on the subrecipient applications to develop the state's POP (stage 2 of the FTA-to-state grant life cycle).
- c. **State Application to FTA on Behalf of the Subrecipients** - This happens in stage 3 of the FTA-to-state grant life cycle.
- d. **State Grant Award and Execution** - After the state has received the state grant from the FTA, the state executes its own grants to the subrecipients. This and the rest of the subrecipient grant activities fall within stage 5 of the FTA-to-state grant life cycle.
- e. **Subrecipient Project Activity** - The subrecipient conducts the project activities and incurs project costs.
- f. **Subrecipient Submittals to State** - The subrecipient submits requests for reimbursement and supporting documentation, and project progress reports to the state. These submittals provide the basis for the next step.
- g. **State Submittals to FTA** - The state submits Federal Financial Reports (FFRs) and Milestone/Progress Reports (MPRs) to FTA through TEAM/TrAMS.
- h. **FTA to State to Subrecipient Reimbursement** - Once the state receives dollars from FTA, the state reimburses its subrecipient.
- i. **State Close-out of Subrecipient Grant** - The state monitors subrecipient grant activity and project milestones. Once the project is complete (or, for inactive grants, when the funding availability is due to expire), the state initiates grant close-out with the subrecipient. Once the grant is closed out, the funds are no longer available to the subrecipient.

Module 2.4: Subrecipient Grant Administration



Subrecipient Grant Applications

States typically have a subrecipient grant application process for determining which projects should receive FTA grant funding. States develop their own local grant application policies, procedures, formats, and means of submission. Some states require a separate application for each FTA and state funding program. Others have a consolidated or partially consolidated application.

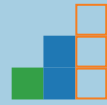
Common elements required by states in their subrecipient grant applications include:

- Applicant description (demonstration of eligibility to apply for specific funds)
- Detailed project description
- Project budget and sources of local match
- Project justification (demonstration of need)
- Documentation of public notice/comment, private sector notification, coordination, and any other planning activities required for the grant—FTA requirements vary by grant, and your state may have additional requirements
- Information on the applicant's overall transportation program, services and assets, including service descriptions, brochures, operating statistics, vehicle inventory, overall program budget, etc. This may be a mix of narrative description and tables with numerical data.
- Information on the applicant's support functions such as vehicle maintenance, safety and security program, training program, transit marketing program, etc.
- Information on the applicant's administrative, technical, and financial capacity
- Documentation of compliance with FTA requirements
- Certifications and assurances—those that apply to FTA grants as well as any state-specific requirements

States typically rely on subrecipient grant applications for developing their own Program of Projects (POP) for the state's application to FTA. Many states also use the subrecipient grant application process as a means of monitoring subrecipients for FTA compliance, particularly under those grant programs for which subrecipients submit an annual application.

Please refer to your state's application packages and State Management Plans (SMPs) for information on your state's subrecipient grant application processes.

Module 2.4: Subrecipient Grant Administration



Subrecipient Funding Allocations/Project Selection

State Project Selection Criteria

Each FTA grant program has its own set of requirements related to how states should distribute funds among local projects. Each state determines its own subrecipient funding allocation formulas and project selection criteria for the FTA and state grant programs it administers. States are generally given broad discretion on how they design their local project selection process, so long as their process meets the federal requirements, which are listed below for each FTA program. Please consult your state's SMPs and subrecipient application packages to learn about your state's criteria processes.

Section 5310

When selecting projects for the S. 5310 program, states need to:

- Determine applicant and project eligibility;
- Allocate funds to subrecipients on a fair and equitable basis;
- Select projects based on criteria consistent with the coordinated planning process (typically a competitive process);
- Certify that all projects are included in a locally developed, coordinated public transit-human service transportation plan developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and non-profit transportation and human service providers, and other members of the public;
- Certify that to the maximum extent feasible, services funded under S. 5310 are coordinated with transportation services assisted by other federal departments and agencies; and
- Ensure that at least 55 percent of an area's apportionment is used for "traditional" S. 5310 projects, which are "public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable."

(The above list is based on FTA C 9070.1G, the proposed S. 5310 circular).

Module 2.4: Subrecipient Grant Administration



Section 5311

When selecting projects for the S. 5311 program, states need to:

- Provide for fair and equitable distribution of the apportionment in the state, including Indian reservations.
- Allocate at least 15 percent of its annual S. 5311 apportionment “to carry out a program to develop and support intercity bus transportation” (the S. 5311(f) program), unless the governor certifies that “the intercity bus service needs of the state are being met adequately.”
- Provide for maximum feasible coordination with other public transportation services assisted by other federal sources.

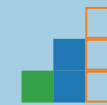
(The above list is based on FTA C 9040.1F, the pre-MAP-21 S. 5311 circular).

Section 5307

States which are the designated recipients for small urbanized areas under the S. 5307 program also have allocation considerations for this program. Although FTA allocates the total amount of S. 5307 funding to each urbanized area each year based on an allocation formula, states still have the responsibility for selecting specific projects in the small urbanized areas. States need to:

- Allocate the relevant apportionment among eligible subrecipients in the urbanized area or areas based on local needs and arrangements, and in coordination with the Metropolitan Planning Organization (MPO). Eligible S. 5307 subrecipients include:
 - public entities otherwise eligible to become direct recipients under S. 5307, and
 - private non-profit operators of eligible job access and reverse commute projects.
- Identify and select the projects (capital, operating, job access and reverse commute, or planning) that the MPO or state DOT will include in a metropolitan transportation plan, Transportation Improvement Program (TIP), Statewide Transportation Improvement Program (STIP), and/or Unified Planning Work Program (UPWP).
- Ensure that, in the annual POP:
 - at least one percent of the apportionment is used for associated transit improvements (formerly known as “transit enhancements”; see FTA C9030.1E [*pages IV-3 to IV-4 for a list what qualify for this one percent*], and

Module 2.4: Subrecipient Grant Administration



-at least one percent is used for public transportation security projects (unless all security needs are certified as being met).

(The above list is based on FTA C 9030.1E, the proposed S. 5307 circular).

Title VI as an Overarching Principle

“Fair and equitable” is not only a concept required at the program level; states must also ensure that distribution of funding does not violate Title VI of the Civil Rights Act, and must have procedures for assuring equity of distribution of benefits among groups within the state. The requirements of Title VI as they apply to subrecipients are described in a stand-alone module of this curriculum.

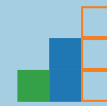
Subrecipient Grant Agreements

A state-to-subrecipient grant agreement is executed by the state for each subrecipient project selected for FTA funding. The agreement typically spells out the project(s) to be funded, the amount of federal funding provided (as well as any state funds to be used in the project), the local match the subrecipient must provide, and the gamut of federal requirements with which the subrecipient agrees to comply in accepting FTA funds.

Some states refer to subrecipient grant agreements as contracts; however, FTA does not consider such agreements to be contracts. This is an important distinction, since there are FTA rules related to contracts (and procuring contracts) that do not apply to subrecipient grant agreements. However, like a contract, the grant agreement comes with legal obligations.

A state will wait to execute its grant agreements with subrecipients until after it has executed its grant agreement with FTA for those funds which will be passed on to the subrecipients, since states are not permitted to incur expenses before a grant is awarded. Exceptions to this may be subrecipient grants in which the state is providing its own match and can draw down its own funds to reimburse subrecipients prior to FTA award, or when the state has received Pre-Award Authority from FTA. Typically, states issue subrecipients separate capital and operating agreements, since these are linked to the state’s grants with FTA, and FTA’s grant category segregation.

Module 2.4: Subrecipient Grant Administration



Subrecipient Reporting and Tracking

Each state establishes its own financial and project progress reports required for its subrecipients, as well as reports on data needed for rural NTD submission. State staff who are responsible for preparing the MPRs and FFRs for FTA should review subrecipient reports to ensure that:

- the required local match has been provided, and comes from an allowable source
- the expenses for which reimbursement is requested are eligible for funding under the grant/project
- the operating data, project progress reports, and accompanying documentation adequately support/justify the amount of reimbursement requested by the subrecipient.

For more information, refer to your state's SMPs, subrecipient grant agreements, and other subrecipient guidance.

Subrecipient Project Closeout

The state must close out subrecipient projects within 90 days of completion of project activities (after all funds are expended and/or all work activities for the project are completed). State close-out of its own grants from FTA is contingent upon first closing out its subrecipient grants.

States need to closely monitor subrecipients to ensure that grant activities are completed in accordance with the project scope and that disbursement of FTA funds are requested in a timely manner.

Please refer to your state's SMP or standard operating procedures to learn more about how project funds are tracked and how to initiate close out once all funds are spent or the project is otherwise completed.

Module 2.4: Subrecipient Grant Administration



TIPS ON RELATIONSHIPS TO OTHER MODULES

This module is very closely related to FTA Grant Administration, FTA Financial Management, and Subrecipient Financial Management.

LINKS/INFO

- FTA Circulars. <http://www.fta.dot.gov/about/13716.html>
- National Transit Database Reporting Manual (www.ntdprogram.gov)

QUIZ

1. FTA is prescriptive in what constitutes fair and equitable distribution among Section 5310 applicants.

1) True. 2) False.

2. FTA requires subrecipients to complete which of the following reporting forms?

- A) Milestone/Progress Reports
- B) Federal Financial Reports
- C) National Transit Database Reports

1) A & C. 2) B & C. 3) A, B, & C, but only on an annual basis. 4) none of the above.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.5: FTA Financial Management



INTRODUCTION

This module addresses FTA requirements related to how the state manages FTA funds. The state must demonstrate the ability to match and manage FTA grants and expend FTA funds only on eligible activities.

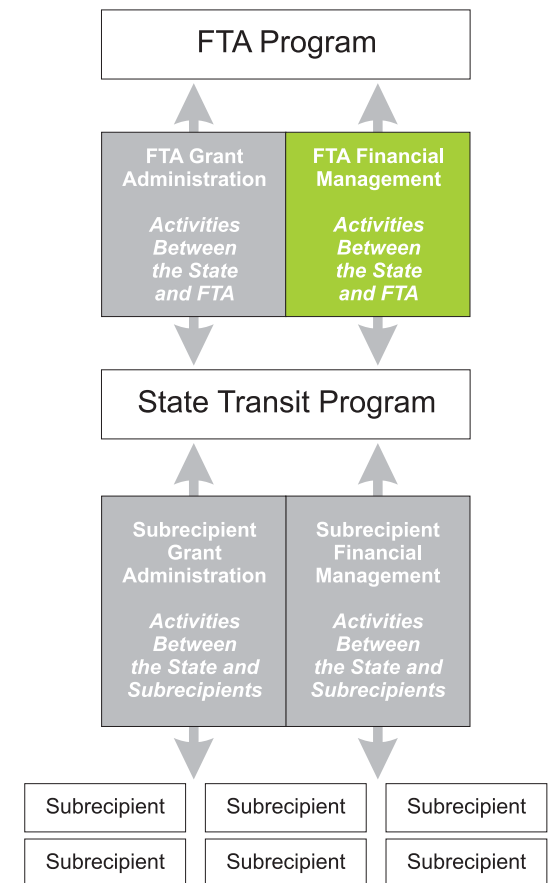
Prior to reviewing this module, it is recommended that state staff review the FTA Grant Administration module. Financial management is closely related to grant administration, as illustrated in the diagram to the right.

The statutes and regulations governing financial management requirements include:

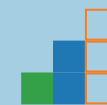
- Federal Transit Laws, Title 49, USC, Chapter 53
- 2 CFR Part 225 (OMB Circular A-87), “Cost Principles for State, Local, and Indian Tribal Governments”
- 2 CFR Part 230 (OMB Circular A-122), “Cost Principles for Non-Profit Organizations”
- 31 CFR Part 205, “Rules and Procedures for Efficient Federal-State Funds Transfers”
- 49 CFR Part 18, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments”
- 49 CFR Part 630, “Uniform System of Accounts and Records Reporting System”
- 51 CFR 552, “Federal Agencies Responsible for Cost Negotiation and Audit of State and Local Government”
- Office of Management and Budget Open Government Directive - Federal Spending Transparency
- OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations”

KEY CONCEPTS

- Budgeting
- Accounting
- Financial Reporting and Financial Status Reports
- Funds Management
- Federal Financial Interest in Assets



Module 2.5: FTA Financial Management



- P.L. 109-282 Federal Funding Accountability and Transparency Act of 2006
- Single Audit Act Amendment of 1996

Key guidance documents are:

- FTA Master Agreement
- FTA C 5010.1D - Grant Management Requirements
- FTA Grant program-specific circulars
- ECHO Web User Manual for FTA and FAA grantees (http://www.fta.dot.gov/documents/ECHO_Web_Grantee_User_Manual_May_21_2012_version_2.4.pdf)
- FTA ECHO Web User Manual 2012 (<http://www.fta.dot.gov/documents/ECHOWebGranteeUserManual.pdf>)
- FTA TEAM-Web User Guide (<http://ftateamweb.fta.dot.gov/static/userguide.html>)

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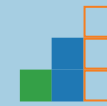
A state may be cited as deficient in a State Management Review (SMR) if it does not comply with each FTA requirement. Without sufficient local match funding, the state may not be able to draw down all FTA funds. Funds which are not obligated during their period of eligibility to the state will be deobligated by FTA for reallocation to other states.

DEFINITIONS

Accrual Basis of Accounting: The accounting method where income is recorded when earned instead of when received, and expenses are recorded when incurred instead of when paid. FTA requires the Federal Financial Report (FFR) to be prepared in the accrual method of accounting.

Activity Line Item (ALI): The description and dollar amount contained in the budget for an approved grant activity associated within

Module 2.5: FTA Financial Management



a particular scope approved as part of a grant. ALIs under each scope are informational and are used as tools for FTA and the grantee to manage the grant.

Depreciation: Method used to calculate the reduction in value of an item of personal or real property over time. Is the term most often used to indicate that personal property has declined in service potential. It is also a method of determining fair market value when disposing of an asset prior to the end of its useful life.

Electronic Clearing House Operation (ECHO): ECHO is a web-based application that processes draw down requests and makes payments to FTA grantees.

Fair Market Value: The most probable price equipment or project property would bring in a competitive and open market.

Obligate/De-obligate: To bind or commit grant funds to a project/to undo this commitment

Program of Projects (POP): A list of projects to be funded in a grant application submitted to FTA by a designated recipient. The POP lists the subrecipients and indicates whether they are private non-profit agencies, governmental authorities, or private providers of transportation service, designates the areas served (including rural areas), and identifies any tribal entities. In addition, the POP includes a brief description of the projects, total project cost, and federal share for each project.

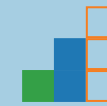
Project: For the purposes of the FTA program, public transportation improvement activities funded under an executed grant.

SUMMARY OF FTA REQUIREMENTS

Budgeting

A budget is an estimate of income and expenditures related to a particular organization, program, or project for a set period of time. It is an important tool for short-range planning, monitoring, and controlling the direction and outcome of the organization, program, or

Module 2.5: FTA Financial Management



project. State FTA program managers are challenged with developing budgets that address FTA grant requirements while fitting into the state's own budgeting processes, and also incorporating subrecipient grant/project budgets into the state's POP.

FTA Budget Structure

Typically, a state is awarded one grant per year for each formula programs such as S. 5310 and S. 5311. Within that grant, the state will have multiple projects. In the state's interface with FTA, subrecipient grants are considered projects.

At both the "macro" level and project level, the budget must include an overall sum of expenses, and revenues to cover those expenses that comply with FTA requirements. Each FTA grant program, and each type of grant within a program (capital, operating, planning, administration) has a different maximum federal share. FTA dollars can be no higher than the allowable federal share for each type of project; the remainder of the expenses must be covered by local match, and, in the case of operating projects, operating revenues such as farebox or advertising revenue collected by the subrecipient. For more information on subrecipient budgeting and local match requirements, refer to the Subrecipient Financial Management module.

In the POP and application to FTA, project budgets include "activity lines" for capital items, operating assistance, project administration, state administration, and, under S. 5311, intercity bus projects and Rural Transit Assistance Program (RTAP) activities. A state combines the various subrecipients' projects listed in the POP into standard activity line items (ALIs). For example, all operating assistance funds requested by the various subrecipients listed in the POP would be tallied in one operating assistance activity line item.

The Budget Cycle

FTA grant budgets are typically prepared by state DOTs on an annual basis, and submitted as part of the annual grant application. States prepare an overall budget for each FTA grant program that includes subrecipient projects as well as specific state-level projects to be funded by that grant. These projects are aggregated into a POP for each grant.

At the federal level, FTA grant programs are apportioned to programs and allocated to states for the 12-month period of October



Module 2.5: FTA Financial Management

1 through September 30 (the federal fiscal year). State allocations for the upcoming fiscal year are typically published in the *Federal Register* in early October. Once this notice is published, the state knows how much FTA funding (total by grant) is available to the state (including its subrecipients) for the next 12 months, and the state can prepare its FTA grant budgets, obligating the funds FTA allocates to it, and allocating those funds to its own subrecipients.

Although each FTA grant is awarded in a specific fiscal year, depending on the program and project type, a grant may span multiple federal years—which is almost always the case with state grants that include subrecipient projects, since there will usually be lag time in awarding subgrants to the subrecipients. Generally state transit budgets include state funds from the current fiscal year but may include federal funds from previous year(s). Also, capital projects, particularly those that involve facility construction or procurement of transit vehicles, often span multiple years simply due to the amount of time it takes to complete these types of projects.

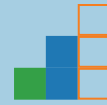
Each state government has its own overall budget process that will impact how and when a state's transit program prepares its internal budget. Some states have a biennial process, which means the transit program needs to estimate its grant budgets two years in advance.

Accounting

The Common Rule requires that the state (and its subrecipients) have fiscal control and accounting procedures sufficient to permit preparation of required reports, and permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. States must be able to trace reimbursements to source documents (including subrecipient documentation; the grantee's records must support ECHO requests). The information should be traced back to an invoice for goods or services or timesheets, and be supported by information from the grantee's accounting system.

Financial Reporting and Financial Status Reports

As described in the FTA Grant Administration module, the state has ongoing reporting requirements for each active grant, including the Federal Financial Report (FFR) and the Milestone/Progress Report (MPR) submitted annually or quarterly, depending upon



Module 2.5: FTA Financial Management

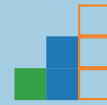
the specific grant. The state should have procedures for coordinating the development of and reconciling the data in MPRs and FFRs before submitting them to FTA, and follow these procedures. The FTA requirements for MPRs are described in the FTA Grant Administration module, and for FFRs are described below.

Federal Financial Reports (FFR)

The purpose of the FFR (Standard Form (SF) 425) is to provide a current, complete, and accurate financial picture of the grant. For each active/executed grant, the state must submit an FFR that accompanies the MPR. This report is submitted electronically in TEAM/TrAMS, by the due dates described below. FTA requirements and guidelines for the FFR include:

- The FFR must be prepared on the accrual basis of accounting; that is, income is recorded when earned instead of when received, and expenses are recorded when incurred instead of when paid. FTA does not allow the FFR to be prepared in the cash method of accounting. A grantee may keep its books on the cash basis during its accounting year; however, if this is the case, at the submission of the FFR, the grantee must prepare the necessary accruals and submit the FFR on the accrual basis of accounting.
- All financial facts (e.g., expenditures and obligations) relating to the scope and purpose of each financial report and applicable reporting period should be completely and clearly displayed in the FFR.
- Reported financial data should be accurate and up to date. The requirement for accuracy does not rule out inclusion of reasonable estimates when precise measurement is impractical, uneconomical, unnecessary, or conducive to delay.
- Financial reports should be based on the required supporting documentation maintained in the grantee's official financial management system. This system should produce information that objectively discloses financial aspects of events or transactions.
- Reported financial data should be derived from accounts that are maintained on a consistent, periodic basis; material changes in accounting policies or methods and their effect must be clearly explained.

Module 2.5: FTA Financial Management



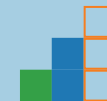
- Reporting terminology used in financial reports to FTA should be consistent with receipt and expense classifications included in the latest approved project.
- Federal cash on hand at the end of period (the amount of federal cash receipts not disbursed at the end of the reporting period) should reflect immediate cash needs. If there is cash on hand at the end of the reporting period, FTA requires an explanation describing why drawdowns were made early or other reasons for the excess cash, if any. FTA may assess interest charges for excess cash held for more than three business days.
- Both federal and local share of unliquidated obligations must be calculated with the correct federal/local share and reported. Unliquidated obligations are binding commitments that have been entered into and for which expenditures have not yet been recorded because goods and services have not been received.
- The rate of any indirect costs that are charged to a grant must be consistent with the cost allocation plan or indirect cost proposal (described later in this module).
- The state must certify in the remarks and certification tab of the FFR in TEAM/TrAMS that the information submitted to FTA is true, complete, and accurate to the best of its knowledge.
- The state must respond to any FTA comments regarding an FFR.

Instructions for completing the FFR screen in TEAM are provided in TEAM-Web User guide.

FFR/MPR Reporting Due Dates

- For each open state S. 5309 grant that includes construction of a facility, the FFR and MPR are due quarterly, no later than 30 days after the end of each federal fiscal quarter (i.e., by January 30, April 30, July 30, and October 30).
- For all other open state grants, the FFR and MPR are due annually by October 31 for the preceding federal fiscal year (Oct. 1-Sept. 30).

Module 2.5: FTA Financial Management



- Reports are due even when there is no grant activity.
- FTA may withhold payment for failure to submit either FFRs or MPRs in a timely manner. In individual cases, FTA may grant extensions of report due dates for good cause.

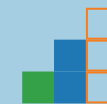
Funds Management

Funding Availability

A grant's funds are available for a finite period. The following table shows the period of availability of funds for selected programs administered by states:

<i>Funding Program</i>	<i>Period of Availability of Funds</i>
S. 5305 planning programs	4 years (Year of Apportionment plus 3)
S. 5307 small urbanized	6 years (Year of Apportionment plus 5)
S. 5309 fixed guideway modernization <i>(State administered S. 5309 programs phasing out; FFY12 last year of apportionment)</i>	4 years (Year of Apportionment plus 3)
S. 5309 discretionary <i>(FFY12 last year of apportionment; replaced by S. 5339 beginning FFY13)</i>	3 years (Year of Apportionment plus 2)
S. 5310	3 years (Year of Apportionment plus 2)
S. 5311	3 years (Year of Apportionment plus 2)
S. 5316 <i>(phasing out; FFY12 last year of apportionment)</i>	3 years (Year of Apportionment plus 2)
S. 5317 <i>(phasing out; FFY12 last year of apportionment)</i>	3 years (Year of Apportionment plus 2)
S. 5339	4 years (Year of Apportionment plus 3)

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Program funds remain available to the states for obligation for the number of federal fiscal years indicated. A state need not apply for all its funds the year the funds are apportioned, but states must obligate funds before the period of availability ends. Any funds remaining unobligated at the end of the period of availability are added to the next year's federal program apportionment and are reapportioned among all states (or UZAs in the case of S. 5307).

Sometimes projects require less than the full amount of funds originally requested and obligated by the state, and therefore funds may remain after the project is completed. The state may reprogram remaining funds to other projects. Funds that a state deobligates from an approved POP remain available to the state for reobligation during the period that the funds were originally available to the state. Funds deobligated after the period of availability lapse to the state and return to FTA. FTA then reapportions these funds among all the states (or UZAs in the case of S. 5307).

When developing a POP for a new fiscal year, the state should look to available funds in existing grants carried over from the last fiscal year, obligating the oldest funds first before applying for new funds. FTA prefers this practice as a strategy to minimize the length of time each grant is open and the number of open grants.

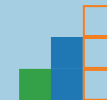
Flexibility of Transfers among the State Managed Programs

MAP-21 (and SAFETEA-LU) allows the states flexibility in transferring funds among the various state-administered programs such as S. 5310 and S. 5311. In some cases, the purpose of the transfer provision is for administrative streamlining of grant making and is not intended to supplement other funding resources. Transfers must be done within the period of funding availability. Funds transferred must be used for the express purposes designated by the original program.

Further, within an FTA program, states may have some flexibility in transferring allocations between geographic areas or types of projects. For example, the post-MAP-21, S. 5310 program funds are to be allocated 60 percent among designated recipients in

Although it may be surprising to hear that FTA funds are not always fully obligated at the state/local level, historically this has been an issue for some states, with money “left on the table” that could be put to effective use in other states. This includes “Category C” projects under S. 5310 and S. 5311. To ensure that funds are used, FTA has become more proactive in requiring states to obligate funds within their period of availability.

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large urbanized areas; 20 percent to states for small urbanized areas; and 20 percent to the states for rural areas under 50,000 in population. Funds apportioned to small urbanized areas or rural areas may be transferred to projects in large urbanized areas if a state's governor certifies that objectives of the S. 5310 program are being met in the small urbanized or rural areas that received the initial apportionment. Alternatively, a state may transfer funds apportioned to small urbanized areas or rural areas for a project anywhere in the state, in accordance with an established statewide program for meeting the objectives of the S. 5310 program. However, S. 5310 funds apportioned to large urbanized areas may not be transferred to other areas.

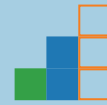
<i>From:</i>	<i>To:</i>	<i>S. 5307 under 200K</i>	<i>S. 5310</i>	<i>S. 5311</i>	<i>S. 5316 (phasing out)</i>	<i>S. 5317 (phasing out)</i>
<i>S. 5307 under 200K</i>		—	Yes	Yes	No	No
<i>S. 5310</i>		No	—	No	No	No
<i>S. 5311</i>		Yes	No	—	No	No
<i>S. 5316 (phasing out)</i>		Yes	No	Yes	—	No
<i>S. 5317 (phasing out)</i>		Yes	No	Yes	No	—
<i>S. 5339</i>		Yes	No	Yes	No	No

Payment Procedures

Grantees request federal funds through U.S. DOT's Electronic Clearinghouse Operation (ECHO-Web). The grantee's records must support ECHO requests. The information should be traced back to an invoice for goods or services or timesheets, and be supported by information from the grantee's accounting system. Either the individual who is the registered ECHO approving official or a person to whom this person has delegated the authority in writing must approve each ECHO request. The approving official must not draw the funds.

Provisions in 49 CFR 18.21 and 19.22 and 31 CFR Part 205 govern payments to recipients for financing operations under federal grants and other programs. These regulations require that payment to a grantee be limited to the minimum amounts needed and

Module 2.5: FTA Financial Management



timed so as to be in accord only with the actual, immediate cash requirements of the grantee in carrying out the approved project. Before a potential grantee requests funds, it should verify in TEAM that funds are available for the project. Funds should not be requested in amounts greater than the “Available Funds” reported in TEAM.

The grantee may initiate draws only when cash is needed for immediate reimbursement and must disburse the funds within three business days. Disbursement means that the grantee no longer controls the money (e.g., a check has been sent to a vendor). In most cases, grantees request funds on a reimbursement basis (after expenses have been incurred and paid). In some cases (e.g., large bus procurements), grantees request funds prior to issuing a check. This procedure is acceptable as long as the funds are disbursed within three business days. More information on requesting and handling payments from FTA is found in Chapter VI of FTA C 5010.1D.

ECHO is the primary automated application used by FTA grant recipients (grantees) to request payments from their grant awards. Grantees generate payment requests via message

Good Grant Management Practices

Examples of good grant management practices include:

- Spend oldest funds first for on-going expenses such as state/program administration, operating assistance, ADA complementary paratransit, and preventive maintenance.
- Accumulate state administrative expenses in a generic account and then draw from the oldest grant with available state administrative funds instead of charging the expenses directly to grants
- Tie third party contracts to projects, not directly to grants
- Set project time limits (less than 2 years)
- Use available funding in open grants before including projects in a new grant
- Move delayed projects to newer grants and active projects to older grants
- Transfer small remaining balances to new line items
- Deobligate project balances and reapply for funds (if within period of availability and allowed by the FTA regional office)
- Provide TEAM-Web/TrAMS access to both the state’s program and accounting staff to facilitate the tracking of grant balances
- Regularly reconcile internal grant balances with those in TEAM-Web/TrAMS
- When funding a project with multiple grants, develop a grant drawdown plan
- When funding a project with multiple grants, charge retainage to the newest grant (and report it as an unliquidated obligation) to enable older grant closure

Module 2.5: FTA Financial Management



submission within the ECHO-Web system. The FTA ECHO-Web User Manual provides detailed instructions on using ECHO-Web (<http://www.fta.dot.gov/documents/ECHOWebGranteeUserManual.pdf>).

In addition, FTA circulars on each of its funding programs provide ECHO instructions in an appendix.

Federal Financial Interest in Assets

FTA retains a financial interest in the value of an FTA-funded capital asset (such as a vehicle or facility) until the asset has exceeded its useful life. The federal financial interest amounts to the federally-funded portion. For assets that depreciate (such as vehicles), the federal interest depreciates as well. For a \$100,000 vehicle that was purchased with 80% federal funds that is currently valued at \$10,000, FTA has a \$8,000 federal interest.

FTA provides a useful life policy for rolling stock, trolleys, ferries, facilities, and some equipment funded under S. 5307. FTA calculates the value of vehicles before the end of their minimum useful life on the basis of a formula using straight-line depreciation. Straight-line depreciation is a term most often used to indicate that personal property has declined in service potential. Real estate (land) generally does not depreciate.

The Common Rule gives states flexibility in managing and disposing of equipment. In keeping with the intent of the rule, FTA elects not to apply to S. 5310 and S. 5311 its policies regarding useful life standards for vehicles, vehicle replacement, or the requirement to use the straight line depreciation method for determining fair market value and FTA reimbursement. Instead, FTA holds states responsible for establishing and implementing their own rolling stock requirements for all categories of vehicles acquired under the S. 5310 program, consistent with the state's standards for equipment purchased with state funds.

Removal of an FTA-funded vehicle from revenue service before the end of its minimum useful life, except for reasons of fire, collision, or natural disaster, leaves the recipient liable to FTA for the federal share of the vehicle's remaining value. In the case of project equipment or supplies lost or damaged by fire, casualty, or natural disaster, the fair market value must be calculated on the basis of the condition of the equipment or supplies immediately before the fire, casualty, or natural disaster, irrespective of the extent of insurance coverage. FTA C 5010.1D provides more information on disposition requirements.

Module 2.5: FTA Financial Management



TIPS ON RELATIONSHIPS TO OTHER MODULES

This module is very closely related to FTA Grant Administration, Subrecipient Grant Administration, and Subrecipient Financial Management.

LINKS/INFO

- FTA Circulars. <http://www.fta.dot.gov/about/13716.html>
- ECHO Web User Manual for FTA and FAA grantees. http://www.fta.dot.gov/documents/ECHO_Web_Grantee_User_Manual_May_21_2012_version_2.4.pdf
- FTA ECHO Web User Manual 2012. <http://www.fta.dot.gov/documents/ECHOWebGranteeUserManual.pdf>
- FTA TEAM-Web User Guide. <http://ftateamweb.fta.dot.gov/static/userguide.html>

Module 2.5: FTA Financial Management



1. How frequently must a state submit FFRs and MPRs on open grants?

A) Quarterly B) Semi-annually C) Annually D) Only when there is financial or progress activity to report on the grant

1) A for all grants.

2) A for S. 5307 grants and C for all others.

3) A for S. 5309 grants that includes construction of a facility and C for all others.

4) D.

2. S. 5310 funds apportioned to small urbanized areas or rural areas may be transferred to projects in large urbanized areas if a state's governor certifies that objectives of the S. 5310 program are being met in the small urbanized or rural areas that received the initial apportionment.

1) True. 2) False.

3. What is the acronym for the electronic system that FTA uses to disburse funds?

A) TEAM B) TrAM C) ECHO D) FUND

1) A, but transitioning to B. 2) C. 3) C, but transitioning to B. 4) D.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.6: Subrecipient Financial Management



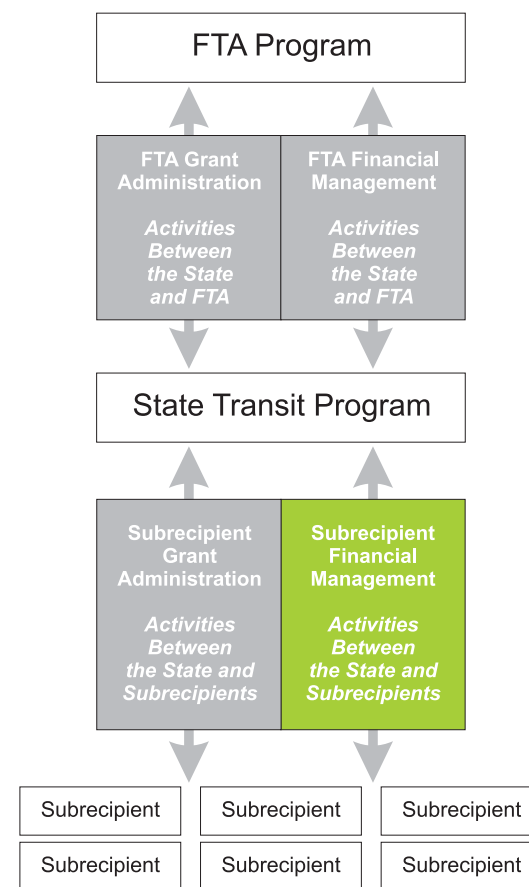
INTRODUCTION

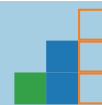
This module addresses the FTA requirements that subrecipients must comply with related to how grant funds are handled, accounted for, reported, and matched, as well as the state's role in oversight of this requirement area.

Prior to reviewing this module, it is recommended that state staff review the following: FTA Grant Administration, Subrecipient Grant Administration, and FTA Financial Management. Financial management is closely related to grant administration, as illustrated to the right.

The statutes and regulations governing financial management requirements include:

- Federal Transit Laws, Title 49, USC, Chapter 53
- 2 CFR Part 225 (OMB Circular A-87), "Cost Principles for State, Local, and Indian Tribal Governments"
- 2 CFR Part 230 (OMB Circular A-122), "Cost Principles for Non-Profit Organizations"
- 31 CFR Part 205, "Rules and Procedures for Efficient Federal-State Funds Transfers"
- 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"
- 49 CFR Part 630, "Uniform System of Accounts and Records Reporting System"
- 51 CFR 552, "Federal Agencies Responsible for Cost Negotiation and Audit of State and Local Government"
- Office of Management and Budget Open Government Directive - Federal Spending Transparency
- OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations"
- P.L. 109-282 Federal Funding Accountability and Transparency Act of 2006
- Single Audit Act Amendment of 1996





Module 2.6: Subrecipient Financial Management

KEY CONCEPTS

- Subrecipient Financial Capacity
- Eligible Expenditures
- Cost Allocation and Indirect Costs
- Local Match
- Force Account Activities
- Audit Requirements and Review

Key guidance documents are:

- FTA Master Agreement
- FTA C 5010.1D - Grant Management Requirements
- FTA Grant program-specific circulars

IMPORTANCE FOR STATE DOT STAFF

It is important that your subrecipients have the financial capacity to manage the federal (and state) transit grants that they are awarded by your agency. As the “grantor”, you are responsible for ensuring that your subrecipients are meeting all the federal regulations and managing their grants in an effective and compliant manner. A state may be cited as deficient in a State Management Review (SMR) if it does not comply with each FTA requirement. The state has oversight responsibility for subrecipients, and is responsible for reviewing subrecipient reimbursement requests and supporting documentation to ensure that only eligible expenses are being charged to the grant.

DEFINITIONS

Please refer to the definitions in the FTA Financial Management module.

Module 2.6: Subrecipient Financial Management



SUMMARY OF FTA REQUIREMENTS

Subrecipient Financial Capacity

Annually, the state certifies to FTA (as part of the annual certifications and assurance process) that it and its subrecipients have the financial capacity to carry out its proposed program of projects. This entails having adequate local funds to match the federal funds, since unless the minimum local match is provided for a grant project, the federal funds cannot be drawn down. Further, because FTA funding is provided on a reimbursement basis, subrecipients must have adequate cash flow to keep the service operating, vehicles maintained, etc. while waiting for reimbursement from FTA through the state.

To ensure that subrecipients have adequate financial capacity, the state must obtain and maintain sufficient documentation from each subrecipient to support the certification to FTA. States have discretion in how this is accomplished, but generally require applicants to list the sources of funding that will be applied to the project. Some states have included the availability of local funding for the project as either a threshold criteria or evaluation criteria in the project selection process. Many states require the development of transit development plans. For capital items, such as vehicle purchases or facility construction, a state may request a three- to five-year financial plan.

Eligible Expenditures

Eligible costs must specifically relate to the purpose of the grant contract and the latest approved project budget. Each FTA funding program has parameters on what expenses are eligible; the nature of the grant (capital, operating, etc.) will further limit what is considered eligible under that grant, and the project budget specifically defines what is considered eligible for FTA reimbursement.

General Principles

FTA grantees must follow the applicable cost principles circulars, currently in Title 2 of the Code of Federal Regulations, in determining whether project costs are allowable or unallowable. Title 2 CFR Part 225, also known as OMB Circular A-87, establishes principles and standards for determining costs applicable to grants, contracts, and other agreements with state and local governments

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and federally recognized Indian tribes. Title 2 CFR Part 230, also known as OMB Circular A-122, establishes cost principles for nonprofits. Criteria for allowable costs from 2 CFR part 225/OMB Circular A-87 are listed in FTA C 5010.1D, pages VI-5 to VI-7.

Ineligible Expenses

FTA funds may not be used for:

- Any project costs incurred by the grantee prior to the date of either the approved grant or the approved project budget (whichever is earlier), unless specifically provided for in a “Letter of No Prejudice” (or equivalent document approved by FTA), or in the pre-award authority as described in the *Federal Register* listing of the Annual Apportionments; and
- Any costs attributable to goods or services received under a contract or other arrangement that is required to be, but has not been, concurred or approved in writing by FTA.

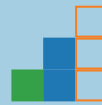
Accounting

The Common Rule requires that the state and its subrecipients have fiscal control and accounting procedures sufficient to permit preparation of required reports, and permit the tracing of funds to a level of expenditures adequate to establish FTA funds have been spent on eligible expenses and not been used in violation of the restrictions and prohibitions of applicable statutes.

States and subrecipients must be able to trace reimbursements to source documents. The state is responsible for ensuring that subrecipients have adequate financial management systems for expending and accounting for FTA funds properly, and can trace funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

Requests for Reimbursement

Each state develops its own policies, procedures, and forms for subrecipients to follow to request grant reimbursement. In addition to



Module 2.6: Subrecipient Financial Management

any state-specific guidelines on how to review subrecipient reimbursement requests/invoices, state FTA program managers or their staff need to cross check what has been requested in the invoice against the supporting documentation provided (such as receipts, expense reports, operating data, etc.) to ensure that:

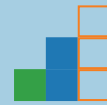
- All required forms and documentation have been submitted, are complete, and the financial calculations are correct.
- For operating projects, fares and other operating revenue are reported and deducted from the total expenses to determine operating deficit from which the local and federal matches are calculated.
- For projects with indirect costs, ensure that the cost allocation rate matches the approved rate (as described in the next section of this module).
- Only project-eligible expenses have been requested (and the subrecipient is not attempting to change the scope of the project, such as attempting to charge the purchase of a different capital item than was authorized in the grant agreement).
- The local match is provided in the format indicated in the grant agreement (and documented accordingly).
- The amount requested jives with the supporting documentation (receipts match expenses for capital purchases; performance measures derived from operating data look reasonable).
- The subrecipient has complied with the procurement requirements for the any purchase exceeding the state's threshold where requirements for documentation kick in.
- The amount requested is within budget, and sufficient funds remain to complete the project (e.g., operating funding requested will not exhaust the grant before the end of the time period funded under the grant).

If documentation deficiencies, math errors, ineligible expenses, or issues are identified in this review, the state should communicate with the subrecipient and ensure that the issues are resolved.

Cost Allocation/Indirect Costs

Under federally funded grant programs, recipients may incur both direct and indirect costs. Indirect costs are organizational costs which are not directly attributable to a specific program or project. Such costs could include general administration services, utilities, communications technology, etc., that are shared by multiple departments or programs. Indirect costs are sometimes referred to as overhead costs, and they are typically allocated or charged to a program or project on a percentage basis.

Module 2.6: Subrecipient Financial Management



An approved cost allocation plan is required to support the distribution of a subrecipient's indirect costs to the FTA grant program. The cost allocation plan must be approved by FTA or the federal agency that provides the most funding to the subrecipient (referred to as the "cognizant" federal agency). For subrecipients that are exclusively public or specialized transit providers, FTA may be the cognizant federal agency. However, the cognizant federal agency is likely to be another federal agency for other types of subrecipients, typically within the U.S. Department of Education for subrecipients that are local municipalities, and within the U.S. Department of Health and Human Services for subrecipients that are non-profit human service agencies.

States are responsible for oversight of subrecipients' indirect cost allocation plans. This includes ensuring that the plan was submitted to a cognizant federal agency. Where a local government only receives funds as a subrecipient, the primary recipient is responsible for negotiating and/or monitoring the subrecipient's plan.

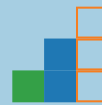
State monitoring of subrecipients should include ensuring that the indirect cost allocation plan is retained for audit, and, when reviewing both a subrecipient's grant application budget and its requests for reimbursement, that indirect costs are charged at the current rate and against the correct base.

Details on the requirements for the cost allocation plan are provided in FTA C 5010.1D, Chapter VI.

Local Match

States and their subrecipients must provide sufficient funds or approved in-kind resources to serve as local match for all FTA-assisted projects. When submitting its grant application to FTA, the grantee certifies that it has or will have available the proportionate amount of local share promptly as project costs are incurred or become due, except to the extent that the federal government determines in writing that the local share may be deferred. The grantee may not use an amount as match for more than one grant.

State assistance may provide some or the entire non-federal match. The sources of state funding may differ for capital and operating assistance programs. Operating assistance may be funded through general revenues. Capital assistance may be funded through bond revenues. FTA does not require a dedicated funding source.



Module 2.6: Subrecipient Financial Management

All of the local share must come from non-U.S. DOT sources, except for Federal Lands Highway Program funds. FTA permits the use of the following as local share: cash (or in-kind contribution); non-farebox revenues from transit operations (e.g., advertising and concession revenues); amounts received under a service contract with a state, local, or private social service agency or organization; undistributed cash surpluses; replacement or depreciation cash funds; reserves available in cash or new capital; in-kind contributions; revenue bond proceeds (capital only); transportation development (toll) credits; program income generated from an earlier grant; Temporary Assistance for Needy Families (TANF) funds; and other non-DOT federal funds, such as Community Development Block Grant funds, if authorized by the originating program to be used for transportation.

Under S. 5307, in-kind contributions such as the market value of in-kind contributions integral to the project may be counted as a contribution toward local share. Grantees may use in-kind contributions of real property as part of the local matching share so long as the property to be donated is needed to carry out the scope of the approved project, with additional caveats as detailed on the FTA circular for this program.

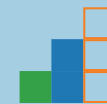
Under S. 5310 and S. 5311, non-cash share such as donations, volunteered services, or in-kind contributions can be counted toward the local match as long as the value of each is documented and supported, represents a capital cost which would otherwise be eligible under the program, and is included in the net project costs in the project budget.

The state must ensure each subrecipient has or will have the required local match for the project and has or will have sufficient funds to operate and maintain the vehicles and equipment purchased under the project. Revenue sources should be stable and reliable enough to meet future annual operating and routine capital costs. The state must obtain and maintain sufficient documentation from each subrecipient to support its certification to FTA. The state must ensure that subrecipients use only eligible funds as local match and that volunteer or in-kind services are fully documented.

States generally require applicants to list the sources of funding that will be applied to the project. Some states have included the availability of local funding for the project as a threshold or evaluation criterion in the project selection process. Many states require the development of transit development plans. For capital items, such as vehicle purchases or facility construction, a state may request a three to five year financial plan.

Income received from the authorized incidental or joint development uses of FTA-funded assets may be retained by the grantees

Module 2.6: Subrecipient Financial Management



(without returning the federal share) if the income is used for eligible transit capital and operating expenses. This income cannot be used as part of the local share of the grant from which it was derived. However, it may be used as part of the local share of another FTA grant.

Force Account Activities

When a subrecipient uses its own work force to carry out a capital grant project, rather than using contractors (e.g. public works staff installing bus shelters), this is referred to by FTA as “force account” work. Force account work includes design, construction, refurbishment, inspection, and construction management activities. It does not include grant or project administration that is otherwise a direct project cost. As noted in FTA C 5010.1D, force account also does not include preventive maintenance or other items under the expanded definition of capital (i.e. security drills, mobility management) that are traditionally not capital projects.

Subrecipients that use their own workforce on a capital project, with the force account work costing \$100,000 or more, must have a force account plan and justification.

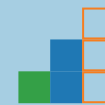
Force account work may be justified based on:

1. cost savings,
2. exclusive expertise,
3. safety and efficiency of operations, or
4. a union agreement.

The state must ensure that each subrecipient that has force account work of \$100,000 or more has a force account plan and justification on file. Details regarding force account plan and justification requirements, and what a grantee must submit to be eligible for FTA reimbursement for force account work, are found in FTA C 5010.1D pages IV-35 to IV-36.

In the unusual situation where a subrecipient plans to use force account valued \$10,000,000 or more, the subrecipient’s force account plan and justification must be submitted to the FTA for prior approval. When work to be performed using force account is valued less than \$100,000, no plan is required.

Module 2.6: Subrecipient Financial Management



Audit Requirements and Review

Non-federal entities that expend \$500,000 or more in a year in federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” downloadable through http://www.whitehouse.gov/omb/circulars_default.

The state must ensure that subrecipients that meet this threshold comply with this requirement. Items purchased by the state for a subrecipient count towards a subrecipient’s single audit threshold. However, FTA does not require a single audit of a subrecipient when assistance is provided solely in the form of capital equipment procured directly by the state.

The complete audit package, along with the management letter and a copy of the SF-SAC form, are due to the Federal Audit Clearinghouse within the earlier of 30 days after receipt of the auditor’s report(s), or nine months after the end of the audit period. Auditors may use the online submission option. The website is located at <http://harvester.census.gov/sac/>.

The state should review the audit reports of its subrecipients, particularly any findings related to FTA grants. The state must ensure that subrecipients resolve audit findings related to FTA programs within six months of receipt of the audit report.

TIPS ON RELATIONSHIPS TO OTHER MODULES

This module is very closely related to FTA Grant Administration, Subrecipient Grant Administration, and FTA Financial Management.

LINKS/INFO

- FTA Grant Circulars. <http://www.fta.dot.gov/about/13716.html>
- OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations.” http://www.whitehouse.gov/omb/circulars_default.

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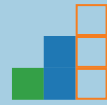


- Federal Audit Clearinghouse. <http://harvester.census.gov/sac/>

QUIZ

- 1. A “Letter of No Prejudice” can authorize a grantee to incur project costs prior to the approved grant.**
1) True. 2) False.
- 2. Under which program(s) can volunteered services be counted as local match?**
A) S. 5310
B) S. 5311
C) S. 5307
1) A. 2) B. 3) A & B. 4) C
- 3. FTA is almost always the cognizant federal agency for the purpose of approval of S. 5310 and S. 5311 subrecipients’ cost allocation plans.**
1) True. 2) False.

Module 2.6: Subrecipient Financial Management



4. A subrecipient is using force account work for a capital grant project with estimated labor costs of \$8,000 and estimated total project costs of \$12,000. In this case, the state:

- A) Must have a force account plan and justification approved by the FTA.
- B) Must only have a force account plan.
- C) Does not need a plan or justification.

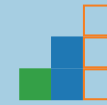
1) A. 2) B. 3) C.

5. A subrecipient is using multiple grants to finance a capital project; a force account plan is needed.

1) True. 2) False.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.7: Project Management and Grantee Oversight



INTRODUCTION

This module addresses general requirements and responsibility related to oversight of FTA recipients and subrecipients, as well as the state's responsibility for technical oversight of subrecipient capital projects (covered in the State Management Review workbook in the "Project Management" section).

FTA oversees program management activities conducted by state DOTs through several kinds of in-depth reviews.

States are responsible for ensuring that their subrecipients comply with FTA requirements associated with each grant or project. FTA requires grantees (including states) to maintain satisfactory continuing control of federally-funded real property, facilities, and equipment, and to ensure that they are used in transit service. In addition to requiring subrecipients to sign and submit annual certifications and assurances, states also need to monitor subrecipients and how they are using their FTA grant funds and FTA-funded equipment and facilities to ensure that the funds are being used as intended. Further, they need to enforce any requirements in which a subrecipient is found to be deficient.

State DOTs must ensure the continuous management of FTA funded projects. Procedures must be in place for quality control and technical supervision.

KEY CONCEPTS

- FTA Compliance Reviews of States
- State Reviews of Subrecipient Compliance
- Project Management of Facility Construction or Rehabilitation Projects

IMPORTANCE FOR STATE DOT STAFF

State DOTs are responsible for oversight of their subrecipients' compliance with FTA requirements. State transit staff needs to maintain documentation of its grant program activities as well as its oversight of subrecipients. State DOTs generally accomplish this function by conducting both on-going and periodic compliance reviews of their grantees to ensure compliance with federal and state regulations as well as continuing control of federally-funded assets. One aspect of oversight that is important but often overlooked is the need to follow-up on areas of non-compliance with subrecipients and to document their corrective actions.

Module 2.7: Project Management and Grantee Oversight



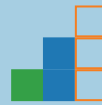
State DOTs must ensure the continuous management of FTA funded projects, whether the projects are conducted by the state or by its subrecipients. Management of capital projects requires technical knowledge.

DEFINITIONS

Capital Project: in general, projects that involve purchasing, leasing, constructing, maintaining, or repairing facilities, rolling stock and equipment intended for use in a public transportation system. Capital project costs may include all direct costs and indirect costs associated with the project. Eligible expenses for capital projects vary by grant program.

The definition of capital project in MAP-21 is two pages long and includes the following categories:

- (A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;
- (B) rehabilitating a bus;
- (C) remanufacturing a bus;
- (D) overhauling rail rolling stock;
- (E) preventive maintenance;
- (F) leasing equipment or a facility for use in public transportation when more cost-effective than purchase or construction;
- (G) a joint development improvement (details omitted here);
- (H) the introduction of new technology, through innovative and improved products, into public transportation;
- (I) the provision of ADA paratransit transportation services, but only for grant recipients that are in compliance with applicable ADA requirements, 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 sections 5307 and 5311;
- (J) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project;



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- (K) mobility management consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers (excluding operating public transportation services);
or
- (L) associated capital maintenance (details omitted here).

Federal Interest: the federally-funded portion of an asset's value. For an asset that was purchased using 80% FTA funding and 20% local match funding, the federal interest would be 80% of the current fair market value of the asset (factoring in depreciation).

Project Management Plan: a document that defines all the tasks necessary to implement a major capital project, including strategies to control the project scope, budget, schedule, and quality (49 CFR 633).

Useful Life: the expected lifetime of project property, or the acceptable period of use in service. Useful life of revenue rolling stock begins on the date the vehicle is placed in revenue service and continues until it is removed from service.

DETAILS ON FTA REQUIREMENTS

FTA Compliance Reviews of States

FTA oversees program management activities conducted by state DOTs through several kinds of in-depth reviews. When conducting oversight reviews of states, FTA looks at how the state conducts oversight of its subrecipients to determine whether the state oversight is adequate to ensure compliance with FTA requirements at the local level.

State Management Reviews

FTA's Office of Program Oversight conducts periodic (generally every three years) State Management Reviews (SMRs) of each state DOT to ensure that the state is carrying out its obligations as a primary grantee of FTA funding. [It should be noted that, during the time this curriculum was being drafted, the researchers learned that FTA was planning a reorganization of oversight functions. The

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Office of Oversight and Program Guidance will be divided. Program Guidance will join the Grants Management office, while Program Oversight will become part of a new parent Office of Safety & Oversight.]

The SMR is a comprehensive assessment of the state's compliance with FTA requirements in implementation and management of FTA programs. The SMR process includes a:

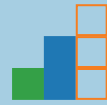
- **Desk Review** - documentation on file with FTA is reviewed prior to visiting the state on site.
- **Site Review** - FTA's reviewers spend several days in the offices of the state DOT, interviewing key staff members and inspecting files. The reviewer uses a workbook of detailed questions addressing each compliance area.
- **Compliance Report** - The reviewers' findings are documented in a report which details any areas where the state was found to be out of compliance.
- **Follow-Up Actions** - The state is required to take corrective action in a specified time frame to come into compliance in any area where deficiencies were found by the reviewer.
- **Follow-Up Review** - FTA follows up with the state to ensure that the corrective actions were completed as assigned so that the state achieves compliance.

Other FTA Oversight of States

In addition to the comprehensive SMR, FTA conducts oversight reviews in specific areas as warranted for states that are at-risk or out of compliance. These include:

- **Civil Rights Review** - conducted by FTA's Office of Civil Rights, these reviews assess compliance with Title VI of the Civil Rights Act of 1964, (including aspects of Environmental Justice), Equal Employment Opportunity (EEO), Disadvantaged Business Enterprise (DBE) programs, and the Americans with Disabilities Act of 1990 (ADA).
- **Financial Management Review** - A state may be subject to a Full Scope Financial Management System Review, a Follow-up Review (which according to the FTA website typically occurs 12-18 months after a Full Scope review), and other reviews of special focus.

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- **Procurement System Review** - Procurement system reviews focus on the state's compliance with federal procurement requirements as detailed in FTA Circular 4220.1F - Third Party Contracting Guidance.

State DOTs that operate urban transit systems funded with S. 5307 or 5309, or have oversight of small urbanized transit systems funded under these programs, are also subject to FTA's Triennial Reviews, ADA Compliance Reviews, and other FTA reviews that are relevant to transit system management and operations.

State Reviews of Subrecipient Compliance

States are responsible for ensuring that their subrecipients comply with FTA requirements associated with each grant or project. FTA requires grantees (including states) to maintain satisfactory continuing control of federally-funded real property, facilities, and equipment, and to ensure that they are used in transit service. In addition to requiring subrecipients to sign and submit annual certifications and assurances, states also need to monitor subrecipients and how they are using their FTA grant funds and FTA-funded equipment and facilities to ensure that the funds are being used as intended. Further, they need to enforce any requirements in which a subrecipient is found to be deficient.

Beyond the FTA-required annual certifications and assurances, each state determines the oversight activities it conducts on its subrecipients. This can range from informal observation and review to in-depth audits of compliance with federal (and state) requirements. Common monitoring approaches include:

- Review of detailed information and documentation required as part of the grant application process.
- Review of required operating and financial reports and back-up documentation. Many states require monthly or quarterly reports from subrecipients.
- Review of performance measures.
- Review of written subrecipient policies, procedures, plans, and programs.
- Requiring procurement documentation for FTA-funded purchases.
- Periodic site visits—state staff can use any visit to a subrecipient to scout out potential problems and gain a better understanding of the services and organizational structure of the local grantee.

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- Inspection of facilities.
- Vehicle inspections.
- Completion of compliance checklists (comprehensive or targeted).
- Review of grant files for required documentation (both on-site and those maintained by the state)
- Review of subrecipients' online information and marketing materials.
- Review of subrecipients' annual audits.

Analogous to the specialized reviews conducted by FTA on the states, states can in turn conduct specialized reviews of subrecipients, such as drug and alcohol program reviews, maintenance audits, etc.

Oversight can be seen as an opportunity to educate and provide technical assistance to subrecipients, rather than simply policing their actions. States can develop the technical capacity of their subrecipients (and build positive state-to-subrecipient relationships) by providing training on requirements, encouraging subrecipients to ask questions, and offering hands-on assistance with achieving compliance.

For capital projects used to purchase assets, state oversight of subrecipient use of the asset should continue until FTA no longer has a financial interest in the asset (i.e., until the asset exceeds its useful life in terms of years or, for vehicles, mileage).

Capital Project Management and Oversight

State DOTs must ensure the continuous management of FTA funded projects, whether the projects are conducted by the state or by its subrecipients. Management of capital projects requires technical knowledge. In conducting SMRs, FTA reviews the state's technical oversight of capital projects in the context of project management. Capital projects are defined by their scope, budget, and schedules; effective project management involves executing these elements while maintaining acceptable levels of risk, quality, safety, and security.

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Project Management of State-Level Facility Construction and Rehabilitation

In many cases, state DOTs contract out for facility construction or facility rehabilitation projects. They must provide technical oversight of the contractor, including regular meetings to review the project status. State project management and oversight may be done in house or by an outside architectural/engineering firm.

States contracting directly for facility construction or rehabilitation must provide technical oversight of the project. Regular meetings between the project manager and contractor(s) should be held to review project status. States may use internal staff, such as an engineering or construction group, to oversee construction projects. States that do not have the technical expertise or internal resources to manage large projects may hire an architectural/engineering (A&E) consultant to serve as project manager.

As described in detail in FTA's Construction Project Management Handbook (see Links/Info for more), the typical project life cycle includes design, bid, and build phases. Even before projects enter the design phase, preliminary considerations include site selection and other zoning issues, public participation, as well as technical studies on water, air, soil, traffic, etc. Project alternatives could include construction versus renovation, leasing, and/or shared arrangements with other agencies.

Under 49 USC 5327, recipients are required to prepare a project management plan (PMP) for all FTA funded major capital projects. However, major capital projects primarily deal with the construction and/or rehabilitation of fixed guideways, rather than facilities. Facility construction/ rehabilitation projects are not defined as major and generally do not require formal PMPs, though some states prepare these plans regardless.

PMPs document project organization, management, budget/costs, planning, design, construction, closeout, quality and risk management, procurement, and communications. Even when not required, some states have project management plans.

Project Oversight of Subrecipient Facility Projects

The state is also responsible for monitoring the facility projects of subrecipients. Monitoring mechanisms may include:

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- Contracting a consultant to provide project management oversight.
- Reviewing the request for proposals and construction contracts.
- Reviewing architectural plans and drawings.
- Conducting periodic site inspections.
- Requiring special progress reports.
- Conducting regular project management meetings.
- Withholding payment of a portion of the grant until final inspection and acceptance.

Project Oversight of Procurements

States buying revenue rolling stock directly must provide for technical oversight of the procurement. When subrecipients buy buses directly, the state must monitor the procurement.

States must provide technical oversight of technology projects implemented by it or its subrecipients. A state's information technology (IT) department may oversee technology projects, sometimes with consultant support.

For procurements for the state-managed programs, the state should document its procedures for administering construction projects, bus procurements, and other capital projects in the state management plans.

More information of oversight in procurements is found in the following modules:

- Introduction to Procurement
- Procurement Policies, Process, and History
- Disadvantaged Business Enterprise (DBE)
- Buy America and Vehicle Procurement Requirements

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SUPPLEMENTAL NOTES

Compliance Monitoring Tools for Subrecipient Oversight

An electronic library of monitoring tools is available to assist state transit programs in developing their own monitoring tools for subrecipients. Developed in 2009 and based on the FTA State Management Review Workbook in use at the time, this toolkit was published as National Cooperative Highway Research Program (NCHRP) Research Results Digest 341: Compliance Monitoring Tools. This toolkit may be downloaded or ordered from the Transportation Research Board through <http://www.trb.org/Main/Blurbs/163185.aspx>.

NEPA Requirements for Capital Projects

Capital projects are subject additional requirements under the National Environmental Policy Act (NEPA). The NEPA process ensures that the environmental effects of proposed transit projects are documented and accounted for, and that alternatives are considered to avoid, minimize, or mitigate adverse effects. Based on the degree of adverse environmental impact the FTA determines one of the following classes of action for a project:

- Categorical Exclusion (CE)
- Environmental Assessment (EA)
- Environmental Impact Statement (EIS)

Categorical Exclusions are for projects that are projected to have minimal to no adverse impacts; no NEPA-related actions are necessary. Depending on the location, bus transfer, storage, and maintenance facilities are typically designated as CEs. However, in cases where the impacts or actions are not known, an Environmental Assessment is required. This includes an alternatives analysis, and may or may not result in a “finding of no significant impact” or FONSI. The last class of action, an Environmental Impact Statement, is a very involved process that is necessary when impacts are significant. In addition to NEPA, recipients must also comply with state environmental requirements; the environmental compliance process varies significantly from one state to another. See 23 CFR 771 for additional details.

Module 2.7: Project Management and Grantee Oversight



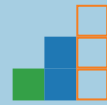
TIPS ON RELATIONSHIPS TO OTHER MODULES

- Topic-specific oversight of subrecipients is discussed in many of the modules.
- Force account requirements (which FTA includes in the Project Management section of the SMR workbook) are addressed in the Subrecipient Financial Management module.

LINKS/INFO

- FTA Circular 5010.D, “Grant Management Requirements.” http://www.fta.dot.gov/legislation_law/12349.html.
- FTA Construction Project Management Handbook. September 2009.
<http://www.fta.dot.gov/documents/FTA-CONSTRUCTION-PRJT-MGMT-HDBK2009.pdf>.
- FTA Project Management Oversight Guidance webpage. <http://www.fta.dot.gov/grants/13923.html>
- FTA Oversight web page. <http://www.fta.dot.gov/about/12310.html>
- NCHRP Research Results Digest 341: Compliance Monitoring Tools - <http://www.trb.org/Main/Blurbs/163185.aspx>

Module 2.7: Project Management and Grantee Oversight



QUIZ

- 1. Under NEPA, capital projects that are projected to have minimal to no adverse impact require an Environmental Assessment (EA).**
1) True. 2) False.

- 2. The SMR process includes all of the following except:**
 - A. A desk review
 - B. A site review
 - C. A procurement system review
 - D. A follow-up review1) A. 2) B. 3) C. 4) D.

- 3. Projects dealing with the construction or rehabilitation of fixed guideways are not defined as major capital projects and therefore do not require formal project management plans.**
1) True. 2) False.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.8: Introduction to Procurement



INTRODUCTION

FTA grantees (and subrecipients) use their own procurement procedures that reflect applicable state and local laws and regulations, provided that the process ensures competitive procurement and the procedures conform to applicable federal law, including 49 CFR Part 18 (specifically Section 18.36) and FTA Circular 4220.1F, “Third Party Contracting Guidance.”

This module provides an introduction to the major elements of the FTA procurement requirements as they apply to states. More details are provided in the subsequent modules of this section:

- Procurement Policies, Process, and History
- Disadvantaged Business Enterprise (DBE)
- Buy America and Vehicle Procurement Requirements

The complexity of the full requirements is reflected in the fact that FTA circular 4220.1F is approximately 150 pages long, and NTI presents a series of multi-day courses that address the details of the requirements. This curriculum attempts to distill the requirements into a brief introduction. State transit staff with procurement oversight responsibilities are advised at a minimum to read the full FTA circular 4220.1F. Ideally they should also attend an introductory NTI procurement course, “Procurement Series - I - Orientation to Transit Procurement” (3.5 days) or “Procurement for Small and Medium Transit Systems” (2 days).

The statutes and regulations governing transit procurement include:

- Federal Transit Laws, Title 49, USC, Chapter 53; also public transportation provisions of Title 23, USC
- 49 CFR Part 18 § 18.36 Procurement
- FTA Master Agreement

Numerous other statutes and regulations govern specific aspects of procurements. These are detailed within FTA C 4220.1F - “Third Party Contracting Guidance.”

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KEY CONCEPTS

FTA procurement requirements are complex and designed to achieve numerous goals including:

- Ensuring consistent and fair approaches to procurement by following written policies and procedures and a code of standards of conduct.
- Ensuring cost-efficient purchases (requiring an independent cost estimate when planning the purchase, and a cost or price analysis for each purchase).
- Ensuring full and open competition among potential vendors by requiring formal procedures for soliciting and reviewing bids and proposal, prohibiting geographic preferences, and providing for a complaint process.
- Creating a “level playing field” on which businesses owned by minorities and women can compete fairly for FTA-funded contracts (Disadvantaged Business Enterprise or DBE requirements).
- Ensuring that vendors are fully qualified to deliver what is being purchased, and have not been banned from participating in federally-funded contracts (suspension and debarment).
- Ensuring that steel, iron, and manufactured products used in FTA funded projects are produced in the United States (Buy America requirements).
- Ensuring that revenue rolling stock (i.e., vehicles) purchased not only meet Buy America provisions, but also Federal Motor Vehicle Safety Standards, FTA bus testing requirements, and other requirements designated by the purchaser (i.e., the grantee or subrecipient) (requiring pre-award and post-delivery audits).
- Ensuring that all FTA-funded contracts include clauses that address all applicable FTA requirements.
- Maintaining a detailed paper trail that provides documentation of all steps in the process.

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IMPORTANCE FOR STATE DOT STAFF

States are responsible for establishing and following their own federally-compliant procurement policies and procedures for making their own purchases (or purchases on behalf of subrecipients), as well as for verifying that subrecipients do this as well.

FTA reserves the right to decline to participate in (i.e., deny funding for) the costs of third party procurements that fail to comply with federal laws, regulations, or the terms of the recipient's underlying grant or cooperative agreement.

Procurement refers to purchasing items or services. Another expression that is frequently used in FTA regulations and guidance is “third party contracting.” This refers to the relationship between FTA, the funding recipient, and the party from which the funding recipient is buying something, also known as the contractor or vendor.

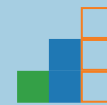
DEFINITIONS

Common Grant Rule: U.S. DOT regulations that apply to all federal grants and cooperative agreements with governmental, non-governmental, and Indian tribal government recipients (49 CFR Parts 18 and 19, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments” and “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations”).

Contract: a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the recipient to expenditure and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements.

Joint Procurement: (sometimes informally referred to as “cooperative procurement”) a method of contracting in which two or more purchasers agree from the outset to use a single solicitation document and enter into a single contract with a vendor for delivery of property or services in a fixed quantity, even if expressed as a total minimum and total maximum. Unlike a state or local government

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purchasing schedule or contract, a joint procurement is not drafted for the purpose of accommodating the needs of other parties that may later choose to participate in the benefits of that contract.

Recipient: the public or private entity to which FTA awards federal assistance through a grant, cooperative agreement, or other agreement. The recipient is the entire legal entity even if only a particular component of the entity is designated in the document through which FTA has awarded the federal assistance. The term “recipient” includes “grantee,” which is a “recipient” of federal grant assistance. The term “recipient” also includes each member of a consortium, joint venture, team, or partnership awarded FTA assistance through a grant, cooperative agreement, or other agreement. For the purposes of the FTA procurement requirements, “recipient” also includes any subrecipient or subgrantee of the recipient.

SUMMARY OF FTA REQUIREMENTS

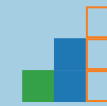
There are two distinct perspectives of applicability of procurement requirements that state transit program staff should be aware of: the state as the purchaser, and state as the oversight agency for its subrecipients.

State as Purchaser

States may procure such diverse projects for their subrecipients as vehicles, technology, real estate, construction, planning and engineering studies, vehicle maintenance, training, and statewide transit marketing. States purchase for their own use the supplies, equipment, and facilities used by state staff in the day-to-day administration of FTA grants. Further, states that operate their own transit services, such as commuter bus or rail, ferry, or regional mass transit systems, must purchase everything needed to manage and operate these services.

States establish their own policies and procedures, typically spelled out in state code, which must be followed whenever the state is the purchaser. When procuring property and services under a grant, a state will follow the same policies and procedures it uses for procurements from its non-federal funds [49 CFR Part 18, § 18.36 (a)]. At a minimum, the state must comply with the federally mandated requirements on contract term limitations for revenue vehicle purchases, competition, prohibitions against geographic preferences,

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procurement of architectural engineering (A&E) services, and awards to responsible contractors.

The state must also ensure that each purchase order and contract financed with FTA assistance includes all provisions required by federal statutes and their implementing regulations, and that each third party contractor and subcontractor is required to comply with the terms of its third party contract or subcontract. In this regard, the state has oversight responsibilities of its contractors and subcontractors—in addition to its subrecipients.

State Oversight of Subrecipients

The state's subrecipients are subject to the requirements outlined in FTA Circular 4220.1F when making purchases using FTA funding, and the state is responsible for ensuring that subrecipients are aware of and comply with applicable FTA procurement requirements.

The procurement requirements in this curriculum generally focus on the state as the oversight agency of the subrecipients, rather than the state's obligations in conducting its own procurement activities or in conducting oversight of its own contractors. An exception to this is the DBE goal-setting and reporting requirements, because subrecipient goals and activities should be incorporated in the state's overall goal and reports submitted to FTA. Also, since many states procure vehicles on behalf of their subrecipients (particularly small vehicles used in demand-response service under the S. 5310 program, for example), the requirements described in the Buy America and Vehicle Requirements module apply to state procurements as well as subrecipients.

Oversight of Subrecipient Compliance

In addition to complying with state and local law, subrecipients must comply with relevant FTA third party contracting requirements when procuring goods and services with FTA assistance.

- Subrecipients that are public entities must comply with FTA requirements that apply to states (those provisions of FTA C 4220.1F and the sections of the Common Grant Rule for governmental recipients, as regulated in 49 CFR Part 18).
- Subrecipients that are private non-profit or for-profit entities must comply with all the FTA requirements of FTA C 4220.1F (per 49 CFR Part 19).

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The state is responsible for ensuring that these organizations are aware of and comply with the requirements for procurements funded with FTA funds.

FTA considers all metropolitan planning organizations (MPOs), even those incorporated as a nonprofit organization under state law, to be “local governments.”

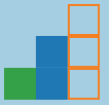
Additionally, each subrecipient’s third party contractor and subcontractor is required to comply with the terms of its third party contract or subcontract, including requirements to extend those federally required clauses and provisions to its subcontractors at the lowest tier required. States must ensure that subrecipients are monitoring compliance of their contractors.

Public Entities

Procurement requirements that apply to the state, public entity subrecipients, and contractors are:

- Comply with its own procurement regulations.
- Conduct all procurements in a manner providing full and open competition.
- Exclude the use of statutorily or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals except in those cases where applicable federal statutes expressly mandate or encourage geographic preference.
- Use competitive proposal procedures based on the Brooks Act when contracting for architectural and engineering services, if the state has not adopted a statute governing the procurement of such services before August 10, 2005.
- Award to only responsible contractors possessing the ability, willingness, and integrity to perform successfully under the terms and conditions of the contract.
- Ensure that every purchase order and contract executed using federal funds includes all clauses required by federal statutes and executive orders and their implementing regulations.
- Do not enter into any contract for rolling stock with a period of performance for ordering exceeding five years, inclusive of options, without prior FTA approval.
- Comply with Buy America requirements, including pre-award and post-delivery requirements.
- Comply with debarment and suspension requirements.

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- Comply with lobbying requirements.
- Comply with piggybacking requirements.

Private Entities

In addition to the requirements that apply to public entities, FTA C 4220.1F requirements that apply to private nonprofit or for-profit entities include, but are not limited to, the following:

- Maintain a written code of standards of conduct governing the performance of employees engaged in the award and administration of contracts.
- Have written procurement policies and procedures.
- Have written protest procedures to handle and resolve disputes relating to the award of contracts.
- Have procedures for settlement of contract issues/disputes (procurements >\$100,000)
- Analyze each planned acquisition in order to identify and evaluate potential organizational conflicts of interest.
- Review procurement requests to avoid duplicative or unnecessary purchases.
- Incorporate a clear and accurate description of the material, product, or services being procured; identify all requirements that offerors must fulfill; and identify evaluation factors in solicitations.
- Develop an independent cost estimate before receiving bids or proposals.
- Conduct a contract cost or price analysis for every procurement.
- Evaluate options at the time of bid award, exercise the options at the agreed upon terms, and determine that the option price is better than current market prices before exercising the options.
- Maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions and specifications of their contracts or purchase orders.
- Maintain a written record of procurement history.

FTA C 4220.1F contains a complete list of third party contracting requirements.

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FTA Guidelines for Monitoring Subrecipient Compliance

(Source: 2013 SMR Workbook, pages 5-12 to 5-13)

State monitoring of subrecipient compliance with FTA third party contracting requirements requires a review of procurement procedures, either through site visits or a periodic review of written procurement manuals.

Some states provide written guidelines or standard terms and conditions to subrecipients and contractors for direct procurements. Some states review subrecipients' and contractors' direct procurements, particularly for vehicles, equipment, and construction. Such reviews, which generally focus on bid evaluation and selection, may be used to ensure that FTA (and state) requirements are met. However, the state is not required to review each subrecipient's or contractor's procurement to ensure compliance with federal requirements. The state may review selected procurements on a periodic basis in conjunction with a site visit or other general review of compliance with federal requirements.

FTA developed a detailed "Procurement System Self-Assessment Guide" which has a comprehensive list of questions that a state can use to assess a subrecipient's procurement system. This guide is available online at http://www.fta.dot.gov/12831_6326.html. Before using the self-assessment guide, you may wish to review the following modules: Procurement Policies, Process, and History and Buy America and Vehicle Procurement Requirements.

SUPPLEMENTAL NOTES

States can require their subrecipients to comply with state-specific procurement requirements as well as FTA requirements. Sources for guidance on how your state's procurement requirements flow through to your state's FTA subrecipients can include the S. 5310 and/or 5311 State Management Plan and your state's procurement/purchasing code.

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TIPS ON RELATIONSHIPS TO OTHER MODULES

Other modules pertaining to procurement include:

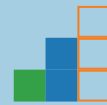
- Procurement Policies, Process and History
- Disadvantaged Business Enterprise (DBE)
- Buy America and Vehicle Procurement Requirements

Other areas of FTA compliance and various other certifications that recipients must sign and pass on to their contractors (“lower tier certifications”), are related to procurement. You may wish to refer to other modules when they are cross-referenced.

LINKS/INFO

- The 2-day NTI course “Procurement for Small and Medium Transit Systems” is recommended for “Level 3” training for state transit program managers with subrecipient oversight responsibilities.
- For “Level 3” training for state transit staff responsible for state procurements, the following NTI courses are recommended:
 - Procurement Series - I - Orientation to Transit Procurement (3.5 days).
 - Procurement Series - II - Risk Assessment and Basic Cost or Price Analysis (3.5 days).
 - Procurement Series - III - RFPs and Competitive Contract Negotiations (3 days).
 - Procurement Series - IV - Contract Administration (3.5 days).
 - Bus Procurement Workshop (2 days).
- FTA’s Procurement System Self-Assessment Guide. http://www.fta.dot.gov/12831_6326.html
- FTA’s FY2013 Procurement System Review Workshop Workbook. http://www.fta.dot.gov/grants/12900_14157.html
- FTA’s Best Practices Procurement Manual. http://www.fta.dot.gov/grants/13054_6037.html

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QUIZ

1. Which of the following relationships are subject to FTA procurement requirements?

- A) Subrecipient purchase of an operating contract
- B) State purchase of vehicles on behalf of its subrecipients
- C) Subcontractor to subrecipient contract
- D) State award of a grant to a subrecipient

1) All of the above. 2) A & B. 3) all of the above. 4) A, B & C.

2. FTA subrecipients that are private entities are subject to more FTA procurement requirements than subrecipients that are public entities.

1) True. 2) False.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.9: Procurement Policies, Process, and History



INTRODUCTION

FTA grantees (and subrecipients) use their own procurement procedures that reflect applicable state and local laws and regulations, provided that the process ensures competitive procurement and the procedures conform to applicable federal law, including 49 CFR Part 18 (specifically Section 18.36) and FTA Circular 4220.1F, “Third Party Contracting Guidance.”

This module presents a basic summary of the FTA procurement requirements related to policies, process, and history (documentation), with details provided where they can assist in making the overview easier to understand. The statutes and regulations governing transit procurement include:

- Federal Transit Laws, Title 49, USC, Chapter 53; also public transportation provisions of Title 23, USC
- 49 CFR Part 18 § 18.36 Procurement

More details are found within FTA C 4220.1F - Third Party Contracting Guidance.

IMPORTANCE FOR STATE DOT STAFF

States are responsible for monitoring that subrecipients establish and follow their own federally-compliant procurement policies and procedures.

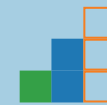
FTA reserves the right to decline to participate in (i.e., deny funding for) the costs of third party procurements that fail to comply with federal laws, regulations, or the terms of the recipient’s underlying grant or cooperative agreement.

KEY CONCEPTS

Cost Efficiency

Purchases made with FTA funding are expected to be cost-efficient and have a price consistent with the current market. This could be described as striving to get the most “bang for your buck.” To maximize cost efficiency, FTA requires that there be a “cost or price analysis with every procurement action.” This will be explained in more detail in the relevant sections of this module. In general terms, this means that before each time a state or subrecipient makes a decision to purchase something using FTA money, they need to do some sort of cost analysis or price comparison, and avoid choosing a product or service that would cost less from another vendor.

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To make best use of funds, it is also important to purchase from vendors who have the capability to deliver the goods or services they promise.

Full and Open Competition

States and subrecipients must provide qualified vendors fair opportunity to obtain contracted work through full and open competition. Depending on the dollar value of the contract or purchase, there are different levels of effort that must be made to ensure open competition and different ways of going about soliciting bids or proposals. An important aspect of ensuring that all qualified vendors have a chance to compete is ensuring that states and subrecipients not discriminate against businesses owned by persons of racial or ethnic minorities or women (i.e., comply with Disadvantaged Business Enterprise requirements).

Ethics

States and subrecipients of FTA funds are expected to make purchases in an ethical manner. This means following the state's (or the subrecipient's) established procurement policies and procedures. Vendors should be selected based on their ability to provide the items or services at a competitive price. In contrast, unethical approaches could include awarding a contract to a vendor simply because they are a friend or family member, or because the person making the award would stand to gain financially, or because the vendor has offered some sort of bribe. Further, recipients and subrecipients are responsible for ensuring that selected vendors have not been debarred or suspended from participating in federal contracts (due to fraudulent behavior, for example).

The following factors can affect applicability of specific procurement requirements:

- The dollar value of the purchase - Generally speaking, purchases of higher dollar values are more complex, although there are certain requirements that apply to all FTA-funded purchases.
- The nature of the items or services being purchased - There are procurement requirements specific to purchases of vehicles and other manufactured products, construction, certain types of service contracts, and architectural services.

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DEFINITIONS

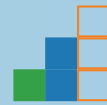
The following are terms that are used throughout this module. Additional definitions for terms used in a specific section of the requirements will be provided in context of that section. For a more comprehensive set of procurement-related definitions, see pages 5 through 11 of Chapter I of FTA C 4220.1F.

Contract: a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the recipient to expenditure and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications.

Full and Open Competition: all responsible sources are permitted to compete. In other words, the ability to compete for a contract award is not restricted, for example, to vendors with whom a relationship has been established, or to vendors within a limited geographic area.

Independent Cost Analysis or Estimate (ICE): a tool to assist in determining the reasonableness or unreasonableness of the bid or proposal being evaluated that is required for all procurements regardless of dollar amount. This term comes from Circular 4220, which states: “Grantees must perform a cost or price analysis in connection with every procurement action, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals.” The independent estimate can range from a simple budgetary estimate to a complex estimate based on inspection of the product itself and review of items like drawings, specifications, and prior procurement data. The word “independent” does not imply that it is performed by someone other than the grantee. This could be the case, however, if the grantee does not have the expertise for a large complex procurement.

Joint Procurement: a method of contracting in which two or more purchasers agree from the outset to use a single solicitation document and enter into a single contract with a vendor for delivery of property or services in a fixed quantity, even if expressed as a total minimum and total maximum.



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Lower tier: a subcontract, below a higher-tier or prime contract in the hierarchy of contracts.

Option: a unilateral right in a contract by which, for a specified time, a recipient may acquire additional equipment, supplies, or services than originally procured. An option may also extend the term of the contract.

Piggybacking: an assignment of existing contract rights to purchase supplies, equipment, or services.

Revenue Contract: a contract in which the recipient or subrecipient provides access to public transportation assets for the primary purpose of either producing revenues in connection with a public transportation related activity, or creating business opportunities involving the use of FTA assisted property. Examples of revenue contracts include sale of advertising space on shelters and buses, or lease of space within an FTA-funded facility for concessions.

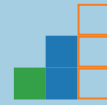
Rolling Stock: buses, vans, cars, railcars, locomotives, trolley cars, ferry boats, and vehicles used for guideways and incline planes.

Simplified Acquisition Threshold: currently \$150,000, as defined in Federal Acquisition Regulation (FAR) 2.101. Note that, based on guidance in place at the time this curriculum was drafted, FTA takes the position that the FAR clause 2.101 definition of “simplified acquisition threshold,” which was increased from \$100,000 to \$150,000, does not apply to FTA’s federally assisted programs absent specific guidance from the Office of Management and Budget or DOT, which we have not received as of February 2011. Instead, FTA is continuing to use the dollar standard of the underlying original statute, establishing the simplified acquisition threshold, 41 USC Section 403(11), referred to in the Common Grant Rule for governmental recipients (currently \$100,000). But when federal regulations or guidance is issued, FTA will implement it appropriately.

Third Party Contract: a recipient’s contract with a vendor or contractor, including procurement by purchase order or purchase by credit card, which is financed with federal assistance awarded by FTA.

Turnkey Procurement: involves the consolidation of several contracts and separate functional efforts into a single project (such as design/build or design/build/operate).

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SUMMARY OF FTA REQUIREMENTS

Compliance with Federal Requirements as an Overarching Principal

Before a subrecipient may use FTA assistance to support the acquisition of property or services, it must comply with all applicable federal laws and regulations, whether or not addressed in the Common Grant Rules. Some of those laws and regulations will affect the third party contractor providing the property or services, or even determine which entities may qualify as a third party contractor. Other laws and regulations will affect the nature of the property or services to be acquired or the terms under which the property or services must be acquired. A recipient may not use FTA assistance to support acquisitions that do not comply with all applicable federal requirements.

FTA's Master Agreement contains a current, but not all-inclusive, description of statutory and regulatory requirements that may affect a recipient's procurement (such as DBE and Clean Air requirements). The Master Agreement states that applicable federal requirements will apply to project participants to the lowest tier necessary to ensure compliance with those requirements. A recipient will also need to include applicable federal requirements in each subagreement, lease, third party contract, or other document as necessary.

Self-Certification

FTA expects each recipient to self-certify that its procurement system complies with federal requirements for any FTA assisted third party contract that the recipient undertakes and administers.

Written Standards of Conduct

Subrecipients must maintain written standards of conduct governing the performance of their employees that are involved in the award or administration of third party contracts. These standards should prohibit personal conflicts of interest and gifts, and provide for penalties, sanctions, or other disciplinary action for violation of the standards.

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Written Policies and Procedures

Subrecipients must have written policies and procedures that ensure full and open competition for FTA -funded procurements. The recipient's procurement procedures are expected to address the following items:

- **Clear Yet Non-Restrictive Solicitation Descriptions** - When a recipient solicits quotes, bids, proposals, etc. from potential vendors, the solicitation must include a clear and accurate description of the technical requirements for the material, product, or service to be procured. A description may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, describe minimum essential characteristics and standards to which the property or services must conform if it is to satisfy the recipient's intended use. However, the description may not contain features that unduly restrict competition. FTA prefers that descriptions indicate functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards, rather than detailed product specifications. When it is impractical or uneconomical to write a clear and accurate description of the technical requirements of the property or services to be acquired, a "brand name or equal" description may be used to define the performance or other salient characteristics of the property or services sought.
- **Necessity (Recipient's Need for the Property or Services)** - *Note: This element is required by the Common Grant Rule for non-governmental recipients, and recommended for governmental recipients.* The recipient must have procedures to avoid the purchase of unnecessary property and services (including duplicative items and quantities or options it does not intend to use or whose use is unlikely). The recipient's contracts may include options to ensure the future availability of property or services, so long as the recipient is able to justify those options as needed for its public transportation or project purposes. The recipient may contract only for its current and reasonably expected public transportation needs, and may not add quantities or options to third party contracts solely to permit assignment to another party at a later date, or acquire more vehicles than it needs for public transportation service in its service area. These limits on assignments, however, do not preclude joint procurements or state or local government purchasing schedules or purchasing contracts.
- **Lease Versus Purchase** - *Note: This element is required by the Common Grant Rule for non-governmental recipients, and recommended for governmental recipients.* To obtain the best value, the recipient should review lease versus purchase alternatives



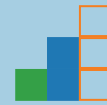
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for acquiring property and determine the more economical alternative. The recipient may use FTA capital assistance to finance the costs of leasing eligible property if leasing is more cost effective than full ownership. Before the recipient may lease an asset, FTA regulations, “Capital Leases,” 49 CFR Part 639, Subpart C, require the recipient to make a written comparison of the cost of leasing the asset compared with the cost of purchasing or constructing the asset. Costs used in the comparison must be reasonable, based on realistic current market conditions, and based on the expected useful service life of the asset.

- **Procurement Methods** - including micro-purchases, small purchases, and, for projects that exceed the federal Simplified Acquisition Threshold, more complex methods such as Invitation for Bids or Request for Proposals.
- **Legal Restrictions** - Any federal, state, or local restrictions on the recipient’s acquisitions should be indicated in the policies and procedures.
- **Third Party Contract Provisions** - The specific provisions required for each third party contract including requirements that each third party contractor extend those provisions to its subcontractors to the extent required. FTA-required contract provisions are detailed by contract type in Appendix D of FTA C 4220.1F (pages D-1 through D-7).
- **Sources (Availability and Use of Various Sources of Property and Services)** - The FTA requirements related to sources of property and services are detailed in Chapter V of the C 4220.1F, and are briefly summarized later in this module.
- **Resolution of Third Party Contracting Issues** - The subrecipient must have written procedures to resolve third party contracting issues. The Common Grant Rules assign responsibility to FTA recipients for resolving all contractual and administrative issues arising out of their third party procurements, including source evaluation and selection and protests of awards, disputes, and claims using good administrative practices and sound business judgment. States and subrecipients are responsible for establishing written protest procedures as set forth in Chapter VII of FTA C 4220.1F.

Although the responsibility to resolve issues rests with the state/subrecipient, FTA must be expeditiously notified of any protests, with status updates provided as part of the quarterly Milestone/Progress Report submitted to FTA. FTA can, however, become involved in the recipient’s administrative decisions when a recipient’s protest decision is appealed to FTA, or when

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the recipient seeks to use FTA assistance to support the costs of settlements or other resolutions of protests, disputes, claims, or litigation. FTA has its own appeals process for reviewing protests of a recipient's procurement decisions, after a protester exhausts administrative remedies through the recipient's protest procedures.

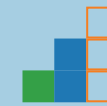
- **Miscellaneous Federal Preferences** - The Common Grant Rule for non-governmental recipients further requires written procurement procedures that address the following (which are also recommended for governmental recipients):
 - Metric Usage. The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
 - Environmental and Energy Efficiency Preferences. A preference, to the extent practicable and economically feasible, for products and services that conserve natural resources, protect the environment, and are energy efficient.

Solicitation Requirements and Restrictions

The Common Grant Rules require that each solicitation provide the following information:

- **Description of the Property or Services.** The solicitation and the contract awarded must include a clear and accurate description of the subrecipient's technical requirements (specifications) for the property or services to be acquired in a manner that provides for full and open competition.
- **Evaluation Factors.** The solicitation must identify all factors to be used in evaluating bids or proposals.
- **Contract Type Specified.** The specifications should state the type of contract that will be awarded (such as firm fixed price or cost reimbursement). The following types are expressly prohibited by the Common Grant Rule: Cost Plus a Percentage of Cost and Percentage of Construction Cost.
- **Other Federal Requirements Affecting the Property or Services to be Acquired.** See FTA 4220.1F Chapter IV, subsection 2.b,

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and FTA's latest Master Agreement for a list of applicable requirements.

- **Other Federal Requirements Affecting the Bidder or Offeror and the Contractor.** See FTA 4220.1F Chapter IV, subsection 2.a, and FTA's latest Master Agreement for a list of applicable requirements.
- **Award to Other than the Low Bidder.** If the subrecipient intends to reserve its right to award to other than the low bidder or offeror, that information should be stated in the solicitation document.
- **Rejection of All Bids or Offers.** If the subrecipient intends to reserve its right to reject all bids or offers, that information should be stated in the solicitation document.

In addition to above requirements, under federal appropriation laws, each state must include provisions in all its requests for proposals and solicitations stating that FTA is or will be providing federal assistance for the project, the amount of federal assistance FTA has provided or expects to provide, and the Catalog of Federal Domestic Assistance (CFDA) Number of the program that authorizes the federal assistance. FTA interprets the statute to require that subrecipients, lessees, or third party contractors of the state at any tier also comply with those notification requirements.

Procurement Methods

The subrecipient's policies and procedures should indicate that appropriate procurement methods depend on the project dollar amount and type of project. The recipient may not divide or reduce the size of its procurement merely to avoid the additional procurement requirements applicable to larger acquisitions. Note that states may adopt lower thresholds and require a more formalized competitive procurement for smaller projects than is required at the federal level. Federal methods include:

- **Micro-Purchases** - for purchases of \$3,000 or less (current micro-purchase threshold under the Federal Acquisition Regulation or FAR). The recipient should distribute micro-purchases equitably among qualified suppliers.
- **Small Purchases** - for purchases valued at more than \$3,000 (current micro-purchase threshold under the FAR) but less than

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\$100,000 (based on the Common Rule threshold for governmental recipients at the time this curriculum was drafted). For small purchases, the recipient must obtain price or rate quotations from an adequate number of qualified sources.

- For purchases valued at **\$100,000 or more** (based on the Common Rule threshold for governmental recipients at the time this curriculum was drafted), more rigorous procurement methods are required. The most commonly used approaches include Sealed Bids (through an Invitation for Bids or IFB) or Competitive Proposals (through a Request for Proposals or RFP); both are introduced below. Depending on the nature of the work to be purchased, other potential approaches include Architectural Engineering (A&E) Services and Design-Bid-Build. The elements of each approach and their appropriate uses are described in 4220.1F Ch. VI, pages 9-17. A state may have its own nomenclature for these types of procurements.

Sealed Bids

Sealed bidding is a generally accepted procurement method in which bids are publicly solicited, and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is lowest in price. Sealed bid procurements should be used when precise, complete specifications are available for the item or service to be purchased, when there are two or more responsible bidders willing and able to compete effectively for the business, and when the successful bidder can be selected on the basis of price (which should be fixed) with no additional discussion necessary.

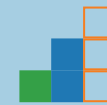
The general process for sealed bid procurements includes developing the precise specifications, setting a deadline for submission of bids, publicly advertising the solicitation for bids with enough time for suppliers to respond, soliciting bids from suppliers, publicly opening the bids received by the deadline, and awarding the contract to the bidder with the lowest price (provided that they meet all requirements).

Competitive Proposals (Request for Proposals)

Circumstances in which competitive proposals should be used include (but are not limited to) purchases when price alone is not the determining factor for selecting a supplier, or when discussions are anticipated before determining the best offer.

The general process for competitive proposal procurements includes developing the specifications and evaluation criteria, setting a

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deadline for submission of proposals, publicly advertising the solicitation with enough time for suppliers to respond, soliciting proposals from suppliers, evaluating the proposals received by the deadline, engaging in separate discussions with individual offeror(s) if needed, and awarding the contract to the responsible offeror whose proposal is most advantageous to the recipient's program with price and other factors considered.

Other than Full and Open Competition and Sole Source Procurements

Normally, the recipient must provide for full and open competition when soliciting bids or proposals. The Common Grant Rule for governmental recipients, however, acknowledges that under certain circumstances, a recipient may conduct procurements without providing for full and open competition. These circumstances are described in FTA C 4220.1F on pages 18-21.

When the recipient requires supplies or services available from only one responsible source, and no other supplies or services will satisfy its requirements, the recipient may make a sole source award, provided that the award can be adequately justified. Situations in which a sole source award could be justified include: the offeror demonstrates a unique or innovative concept or capability not available from another source, patent or data rights restrictions preclude competition, and, in the case of a follow-on contract for the continued development or production of highly specialized equipment, when a new contractor would result in substantial duplication of costs and/or result in unacceptable delays in fulfilling the recipient's needs.

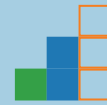
Less than full and open competition would not be justified based on the recipient's lack of advance planning, or concerns about the amount of federal assistance available to support the procurement (for example, expiration of federal assistance previously available for award).

If a recipient receives only a single offer in response to an IFB or RFP, the recipient should determine if competition was adequate. This should include a review of the specifications for undue restrictiveness and might include a survey of potential sources that chose not to submit a bid or proposal.

Sources

Allowable sources of property and services can include:

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- **Force account**, which is the recipient’s own labor forces and equipment. The use of force account labor is a project management function, rather than a procurement and contract administration function, except in the general sense of the recipient’s ability to perform work with its own forces rather than contracting with another entity to acquire the property or services it needs, and the cost implications of the recipient’s decision.
- **Shared Use.** The Common Grant Rule for governmental recipients encourages recipients and subrecipients to enter into agreements for shared use of property and services, and FTA encourages non-governmental recipients to consider shared use if economical and feasible.
- **Joint Procurements.** FTA uses the term “joint procurement” to mean a method of contracting in which two or more purchasers agree from the outset to use a single solicitation document and enter into a single contract with a vendor for delivery of property or services in a fixed quantity, even if expressed as a total minimum and total maximum. Recipients participating in a joint procurement must ensure compliance with all applicable FTA and federal requirements and include all required clauses and certifications in the joint solicitation and contract documents.
- **State or Local Government Purchasing Schedules or Purchasing Contracts.** FTA uses the term “state or local government purchasing schedule” to mean an arrangement that a state or local government has established with several or many vendors in which those vendors agree to provide essentially an option to the state or local government, and its subordinate government entities, to acquire specific property or services in the future at established prices. FTA recognizes joint purchases to be the only type of intergovernmental agreement suitable for use by its grantees and subgrantees. The recipient must ensure all federal requirements, required clauses, and certifications (including Buy America) are properly followed and included, whether in the master intergovernmental contract or in the recipient’s purchase document.
- **Federal Excess and Surplus Property.** The Common Grant Rule for governmental recipients encourages recipients to use federal excess and surplus property managed by GSA when feasible and economical rather than procuring new property.
- **Federal Supply Schedules.** If specifically authorized by federal law, a recipient may use a GSA Federal Supply Schedule. State and local governments may use Federal Supply Schedules to acquire information technology (IT) and to purchase products and

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services to facilitate recovery from a major disaster. The recipient must ensure all federal requirements, required clauses, and certifications (including Buy America) are properly followed and included.

- **Existing Contracts.** FTA permits a recipient to use existing contract rights held by another recipient (referred to as “piggybacking”) if 1) the terms and conditions of the option it seeks to exercise are substantially similar to the terms and conditions of the option as stated in the original contract at the time it was awarded, and 2) the recipient has determined that the option price is advantageous. However, if the contract options were not evaluated as part of the original contract award, or if recipient has negotiated a lower or higher price, the exercising of options amounts to a sole source award, which FTA only allows under very limited circumstances.
- **The Open Market.** The recipient will probably acquire most of the property and services it needs through procurements in the open market, following competitive procurement procedures.

Note that FTA expects each recipient to limit its procurements to the amount of property and services required to meet its reasonably expected needs without adding excess capacity simply for the purpose of assigning contract rights to others at a later date.

Contractor Selection - Basic Qualifications

When selecting a contractor for an FTA-funded procurement, the grantee must consider not only technical ability to deliver the purchased service or product, but also ethical matters, including any potential conflicts of interest. Importantly, vendors who have been banned from participating in federal contracts (i.e., suspension or debarment) may not be awarded contracts or subcontracts.

- **Responsibility.** Contract awards may be made only to responsible contractors, that is, those contractors capable of successfully performing under the terms and conditions of the proposed contract. Before selecting a contractor for award, the recipient must consider such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. Contractors must have the necessary organization, experience, accounting, operational controls, licenses, production capability, and technical skills to complete to project.

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- **Debarment and Suspension.** Each grantee is required to ensure to the best of its knowledge and belief that none of its principals, affiliates, subrecipients, or third party contractors is suspended, debarred, ineligible, or voluntarily excluded from participation in federally assisted transactions or procurements. FTA requires grantees to review the Excluded Parties Listing System (EPLS) which is part of the System for Awards Management (SAM) (www.sam.gov) before entering into any third party contract expected to equal or exceed \$25,000. Grantees may also treat any prospective contractor or subcontractor listed on a centralized state government debarment and suspension list as non-responsible and ineligible for contract award.
- **Conflict of Interest.** The Common Grant Rules require the recipient to be aware of conflict of interest issues a prospective contractor might have, including lack of impartiality, impaired objectivity, or unfair competitive advantage, as discussed more fully in FTA 4220.1F Chapter VI.

Documentation

States and subrecipients must follow their procurement policies and procedures, and must keep records documenting this. Common Grant Rules require the recipient to prepare and maintain adequate and readily accessible project performance and financial records, covering procurement transactions as well as other aspects of project implementation, for three years after the recipient and subrecipients, if any, have made final payment and all other pending matters are closed. The following elements must be maintained in a written record of procurement history:

- **Procurement Method.** A governmental recipient must (and a non-governmental recipient should) provide its rationale for the method of procurement it used for each contract, including a sole source justification for any acquisition that does not qualify as competitive, while a non-governmental recipient need only provide a justification for lack of competition when it does not obtain competitive bids or proposals for contracts exceeding the simplified acquisition threshold.
- **Contract Type.** A governmental recipient must (and a non-governmental recipient should) state the reasons for selecting the contract type it used.
- **Contractor Selection.** A governmental recipient must state its reasons for contractor selection or rejection. FTA expects the

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recipient to include a justification for each noncompetitive award. For procurements exceeding the simplified acquisition threshold, a non-governmental recipient must state its reasons for contractor selection, but need not state its reasons for contractor rejection. Each recipient should include a written responsibility determination for the successful contractor. For micro-purchases, FTA only requires a determination that the price is fair and reasonable and a description of how the recipient made its determination.

- **Cost or Price.** Each recipient must evaluate and state its justification for the contract cost or price. For micro-purchases, FTA only requires a determination that the price is fair and reasonable. For larger purchases, FTA requires cost or price analyses at several points in the process, described later in this module.

C 4220.1F states that the extent of documentation should be reasonable. Documents included in a procurement history should be commensurate with the size and complexity of the procurement itself. FTA recognizes that these written records will vary greatly for different procurements. For example, a receipt or bill accompanying a \$100 credit card purchase might contain all of the required information to support that procurement. Procurements that are more substantial may require extensive documentation.

Federal Cost Principles

Project costs must be necessary and reasonable, allocable to the project, authorized or not prohibited by federal law or regulation, and must comply with federal cost principles applicable to the recipient. Separate cost principles apply to the following four categories of recipients:

- **Governmental Entities.** OMB Guidance for Grants and Agreements, “Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87),” 2 CFR Part 225, applies to project costs incurred by a recipient that is a state, local, or Indian tribal government.
- **Educational Institutions.** OMB Guidance for Grants and Agreements, “Cost Principles for Educational Institutions (OMB Circular A-21),” 2 CFR Part 220, applies to project costs incurred by a recipient that is a public or private institution of higher education.

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- **Non-profit Entities.** OMB Guidance for Grants and Agreements “Cost Principles for Non-Profit Organizations (OMB Circular A-122),” 2 CFR Part 230, applies to project costs incurred by a recipient that is a private non-profit entity.
- **For-Profit Entities.** FAR at 48 CFR Chapter 1, Subpart 31.2, “Contracts with Commercial Organizations,” applies to project costs incurred by a recipient that is a for-profit entity.

Cost and Price Analyses

The Common Grant Rules requires the recipient to perform a cost analysis or price analysis in connection with every procurement action, including contract modifications. The method and degree of analysis depends on the facts and circumstances surrounding each procurement.

- **Before Receiving Bids or Proposals: Independent Cost Estimate (ICE).** As a starting point, the recipient must make independent estimates before receiving bids or proposals. An ICE is necessary to determine the approximate cost of the project (which will determine what types of procurement methods may be used). This includes procurements that are ultimately piggybacked onto another organization’s procurement. ICE documentation should be maintained as part of the written record for each procurement. The FTA Best Practices Procurement Manual provides guidance on how to prepare and document an ICE. (http://www.fta.dot.gov/funding/thirdpartyprocurement/grants_financing_6037.html)
- **As Part of Evaluating Bids or Proposals: Cost or Price Analysis.**
 - A price analysis is required to determine the reasonableness of the proposed contract price when there is adequate competition. For micro-purchases and small purchases, the price analysis can be abbreviated but still must be documented.
 - A cost analysis is required when a price analysis will not provide sufficient information to determine the reasonableness of the contract cost. The recipient must obtain a cost analysis when the offeror submits elements of the estimated cost (such as labor hours, overhead, materials, and so forth) for such projects as professional consulting and A&E contracts, sole source contracts, or other circumstances when price competition is inadequate.

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-In awarding a contract that will include options, FTA expects the recipient to evaluate bids or offers for any option quantities or periods contained in a solicitation if it intends to exercise those options after the contract is awarded.

- **Before Exercising Options.** The recipient must determine that the option price is better than current market prices before exercising a contract's options. This includes conducting another ICE at the time that options are exercised.
- **Before Change Orders.** A fair and reasonable cost analysis must be conducted prior to making any changes to the contract. To be eligible for FTA assistance under the recipient's grant, the cost of the change must be allowable, allocable, within the scope of its grant, and reasonable for the completion of the changed work.

Prohibited Contract Changes

The following changes are not allowed for FTA-funded contracts:

- **Improper Contract Expansions.** These include a larger scope, greater quantities, options beyond the original recipient's needs, or excess capacity added primarily to permit assignment of those contract rights to another entity.
- **Cardinal Changes.** These include a significant change in contract work (property or services) that causes a major deviation from the original purpose of the work or the intended method of achievement, or causes a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract. Such practices are sometimes informally referred to as "tag-ons." Examples of cardinal changes in vehicle manufacturing could include a change from a high-floor to a low-floor vehicle, or changing an engine or other major component, depending on the circumstances surrounding the project and whether a compatible replacement could be obtained through competition. FTA, however, considers changes to seating, fabrics, colors, exterior paint schemes, signage, floor covering, and other similar changes permissible.

Federal Requirements that Come with the Contract

Selected contractors are subject to many FTA requirements in addition to the previously described general qualification requirements.

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Third-party contracts must include provisions for FTA requirements, and grantees are responsible for ensuring that their contractors and subcontractors comply with applicable requirements. As noted earlier, FTA-required contract provisions are indicated by contract type in Appendix D of FTA C 4220.1F (pages D-1 through D-7). Chapter IV of the 4220.1F provides more information on these and other FTA requirements that apply to the contract.

States are expected to provide a mechanism to all contractors and subrecipients for access to the Master Agreement. The following list provides an overview of many of these requirements. This list is not exhaustive; state transit program managers should consult FTA C 4220.1F and the Master Agreement.

- **Lobbying Certification and Disclosure.** If the third party contract will exceed \$100,000, the recipient must obtain a lobbying certification before awarding the contract, and if applicable, a lobbying disclosure from a prospective third party contractor. More information on FTA lobbying restrictions are found in the Lobbying module.
- **Federal Civil Rights Laws and Regulations.**

Third party contractors at each tier must comply with:

-Equal Employment Opportunity (EEO) - The contractor must not discriminate on the basis of race, color, creed/religion, national origin, sex, or age in employment or business opportunity for FTA-funded projects. There are several federal laws and regulations that address this area of discrimination. This set of regulations is addressed in the Equal Employment Opportunity module.

-Americans with Disabilities Act (ADA) - the contractor must not discriminate against individuals in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other federal agencies. This set of regulations is addressed in the ADA module of the curriculum.

In addition, other federal civil rights laws and regulations may affect the types of property and services that may be acquired with FTA assistance. They are mentioned only briefly in this module and described in more detail in other modules of this curriculum, as well as FTA C 4220.1F.



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- Environmental Justice
 - Limited English Proficiency (LEP) - described under the Title VI module.
 - Section 504 of the Rehabilitation Act of 1973 - described under the ADA module.
 - Section 508 of the Rehabilitation Act of 1973 (accessibility of Electronic Reports and Information).
 - Title VI of the Civil Rights Act - described under the Title VI module.
- **Labor Protection.** Federal labor protection laws and regulations apply to certain third-party contracts. For federally-assisted contracts exceeding \$100,000 in the categories of “turnkey”, revenue rolling stock, and construction, the third party contract must require the contractor to compute the wages of every mechanic and laborer based on a standard workweek of 40 hours, and to pay overtime beyond the 40 hour workweek, under the Contract Work Hours and Safety Standards Act. The Fair Labor Standards Act applies to employees performing work involving commerce. Contractors working on a capital project funded using federal assistance must give a hiring preference to veterans.
 - **Sensitive Security Information.** Each third party contractor must protect, and take measures to ensure that its subcontractors at each tier protect, “sensitive security information” made available during the administration of a third party contract or subcontract.
 - **Environmental Protections.** Recipients must include applicable environmental requirements in third party contracts. These are described in FTA Circular 4220.1F and include:
 - Adequate third party contract provisions to facilitate compliance with environmental mitigation measures the recipient has agreed to implement.
 - Compliance of acquisitions with the National Environmental Policy Act—described under the Planning module.
 - Delaying acquisition of property until applicable environmental impact determinations have been made.
 - Obtaining a disclosure statement from the contractor selected to prepare an environmental impact statement specifying that the contractor has no financial or other interest in the outcome of the project.
 - Compliance with U.S. DOT requirements to protect publicly owned parks, recreation areas, wildlife and waterfowl refuges, and historic sites.

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- Compliance with applicable provisions of the Clean Air Act and Clean Water Act, and not using facilities included in the Environmental Protection Agency’s “List of Violating Facilities” in any third party contract at any tier exceeding \$100,000.
 - Providing a competitive preference for recycled products (required for governmental recipients).
 - Other federal environmental protection requirements that may be required for a particular procurement include provisions to protect wild and scenic rivers, manage coastal zones, protect wetlands, conserve endangered species, and protect fisheries, archeological sites, and Indian sacred sites.
- **Energy Conservation.** The Common Grant Rules require third party contract provisions as necessary for compliance with applicable energy efficiency standards and policies of state energy conservation plans issued under the Energy Policy and Conservation Act, as amended, 42 U.S.C. Sections 6321 et seq.
 - **Preference for U.S. Property—Buy America.** FTA’s Buy America law and regulations apply to FTA-funded projects that involve the purchase of more than \$100,000 of iron, steel, manufactured goods, or rolling stock. Buy America is described in the Buy America and Vehicle Requirements module.
 - **U.S. Flag Requirements for Shipments of Property and Project Travel.** In third party contracts involving shipments by ocean vessel, U.S. Flag vessels must be used to transport at least 50 percent of any federally assisted property. Third party contracts involving shipments or project travel by air carrier require provisions to comply with the “Fly America” Act and GSA regulations, “Use of United States Flag Air Carriers,” which require shipment/travel by U.S. flag air carriers unless such carriers are not reasonably available within the standards of GSA’s implementing regulations.

Socio-Economic Development Requirements

Each FTA recipient must comply with applicable federal laws and regulations that provide competitive opportunities for a contractor that qualifies as a disadvantaged business enterprise (DBE), minority owned firm, women’s business enterprise, or small business.

- **Disadvantaged Business Enterprise (DBE)** - each FTA recipient and subrecipient of FTA funding must comply with applicable requirements of DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation

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Financial Assistance Programs,” 49 CFR Part 26. DBE requirements are addressed in the DBE module.

- **Small and Minority Firms and Women’s Business Enterprises.** The Common Grant Rules require each recipient and subrecipient to take steps to ensure that it uses small and minority firms and women’s business enterprises (irrespective of whether they qualify as DBEs) to the fullest extent practicable. Each recipient is required to make information about procurement opportunities available to potentially qualified firms. Each governmental recipient is directed to include these contractors on solicitation lists and request their participation when they are potential sources. Under the Common Grant Rule, governmental recipients are directed to divide total contracting requirements into small tasks or quantities, when economically feasible, while non-governmental recipients are encouraged to contract with consortia when a contract is too large for one of these firms to handle individually. Prime third party contractors of governmental recipients are expected to include related provisions in FTA assisted subcontracts, while non-governmental recipients are directed to consider whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women’s business enterprises. For more information on this requirement, see the DBE module of this curriculum as well as Ch. IV page 8 of FTA C 4220.1F.

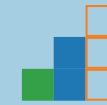
Encouraged Safety Practices

- **Seat Belt Use.** FTA encourages each third party contractor to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include this provision in each third party subcontract involving the project.
- **Texting While Driving and Distracted Driving.** FTA encourages each third party contractor to promote policies and initiatives for its employees and other personnel that adopt and promote safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving, and to include this provision in each third party subcontract involving the project.

Technical Restrictions on the Acquisition of Property and Services

Federal laws and regulations may impose technical requirements that affect a specific procurement, including:

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- **Intelligent Transportation Systems.** Intelligent transportation system (ITS) property and services must comply with the National ITS Architecture and Standards, and third party contracts involving ITS are likely to require provisions to ensure compliance with federal requirements.
- **Metric Measurements.** The recipient agrees to accept property and services with dimensions expressed in metric measurements, to the extent practicable and feasible.
- **Use of \$1 Coins.** FTA assisted property that requires the use of coins or currency in public transportation service or supporting service must be fully capable of accepting and dispensing \$1 coins.

Administrative Restrictions on the Acquisition of Property and Services

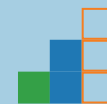
Federal laws and regulations impose administrative requirements that affect specific third party procurements.

- **Legal Eligibility.** The property or services acquired must be eligible for FTA assistance to be used.
- **Scope of the Project.** The property or services acquired must be eligible for support within the scope of the underlying FTA grant or cooperative agreement.
- **Period of Performance.** Recipients are expected to use sound business judgment and be judicious in establishing and extending a contract's period of performance. The period of performance generally should not exceed the time necessary to accomplish the purpose of the contract, and the recipient's procurement files should document its rationale for determining the performance period designated for each contract. Procurements of non-rail rolling stock and replacement part contracts are limited by law to five years, while rail procurements are limited to seven years, including option years. Time extensions that amount to a "cardinal change" will require a sole source justification.

Payment Provisions

For FTA-funded procurements, FTA must indicate its general interest in the project before a recipient may use FTA assistance to finance

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or reimburse project costs, or use local share funds for project costs. FTA general interest is indicated via the grant award for the project, “preaward authority” for the project through a *Federal Register* notice, or a “Letter of No Prejudice” (LONP) for the underlying project. LONP authority allows an applicant to incur costs on a project utilizing non-federal resources, with the understanding that the costs incurred subsequent to the issuance of the LONP may be reimbursable as eligible expenses or eligible for credit toward the local match should FTA approve the project at a later date.

Advance Payments

The recipient may not use FTA assistance to make payments to a third party contractor before the contractor has incurred the costs for which the payments would be attributable. The recipient may use its local share funds for advance payments (payments made to a contractor before the contractor incurs contract costs), but to be eligible for FTA funding, advanced approval from must be obtained FTA. FTA does occasionally make exceptions to its advance payment prohibitions, if the recipient can provide sound business reasons for doing so and has obtained FTA’s advance written concurrence.

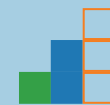
The recipient may use FTA assistance to support progress payments (payments for contract work that has not been completed) if the recipient obtains adequate security for those payments and has sufficient written documentation to substantiate the work for which payment is requested. This could include taking title or obtaining a letter of credit or equivalent measures to protect the recipient’s financial interest in the progress payment.

Protections Against Performance Difficulties

FTA expects the governmental recipient to include provisions or clauses for changes and changed conditions, and remedies for problems, such as liquidated damages for delayed contract completion or other measurable problems, remedies for violations or breach of the contract (required for projects exceeding \$100,000), provisions related to suspension of work, and termination for cause or convenience provisions (required for contracts exceeding \$10,000).

In contracts that exceed the small purchase threshold (which FTA recognizes as the simplified acquisition threshold), non-governmental recipients are required to include administrative, contractual, or legal contract remedies in instances in which a contractor violates or breaches terms of a contract, as well as termination clauses.

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SUPPLEMENTAL NOTES

- States can require their subrecipients to comply with state-specific procurement requirements as well as the FTA requirements. Sources for guidance on how your state's procurement requirements flow through to your state's FTA subrecipients can include the S. 5310 and/or 5311 State Management Plan and your state's procurement/purchasing code.
- FTA's Best Practices Procurement Manual (BPPM) is a good resource with examples for grantees to use in conducting FTA-assisted procurements. However, it is only a guidance document that is not updated frequently, and should not be referenced as a source of the regulations themselves. http://www.fta.dot.gov/funding/thirdpartyprocurement/grants_financing_6040.html

TIPS ON RELATIONSHIPS TO OTHER MODULES

Procurement requirements are also related to several other areas of FTA compliance, including DBE requirements, requirements related to ethics such as suspension/debarment and lobbying, and various other certifications that FTA recipients must sign and pass on to their contractors ("lower tier certifications"). These relationships will be noted throughout this module, and you may wish to refer to other modules when they are cross-referenced.

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LINKS/INFO

- The 2-day NTI course “Procurement for Small and Medium Transit Systems” is recommended for “Level 3” training for state transit program managers with subrecipient oversight responsibilities.
- For “Level 3” training for state transit staff responsible for state procurements, the following NTI courses are recommended:
 - Procurement Series - I - Orientation to Transit Procurement (3.5 days).
 - Procurement Series - II - Risk Assessment and Basic Cost or Price Analysis (3.5 days).
 - Procurement Series - III - RFPs and Competitive Contract Negotiations (3 days).
 - Procurement Series - IV - Contract Administration (3.5 days).
 - Bus Procurement Workshop (2 days).
- FTA’s Procurement System Self-Assessment Guide. http://www.fta.dot.gov/12831_6326.html
- FTA’s FY2013 Procurement System Review Workshop Workbook. http://www.fta.dot.gov/grants/12900_14157.html
- FTA’s Best Practices Procurement Manual. http://www.fta.dot.gov/grants/13054_6037.html
- FTA “Frequently Asked Questions” pertaining to third party contracting. http://www.fta.dot.gov/funding/thirdpartyprocurement/grants_financing_6039.html
- The American Public Transportation Association (APTA) developed the following materials regarding transit procurements:
 - The Process of Transit Procurement (March 2013). <http://www.apta.com/resources/standards/Documents/APTA-PS-PP-RP-007-13.pdf>
 - Transit Procurement: A Guide for Transit Board Members (Oct. 2010). Provides a brief summary of the FTA thresholds and the steps required to plan and execute an FTA-compliant procurement; a good high-level introduction of key concepts. <http://www.apta.com/resources/bookstore/Documents/Transit%20Procurement%20Manual.pdf>

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QUIZ

1. Sealed bidding is recommended when factors other than price will be used to decide on the best offer.

1) True. 2) False.

2. Which of the following circumstances must exist for piggybacking to be allowed?

- 1) the terms and conditions of the option it seeks to exercise are substantially similar to the terms and conditions of the option as stated in the original contract at the time it was awarded.
- 2) when a recipient is able to negotiate a lower price than would be available through a new contract.
- 3) when a cardinal change would allow the grantee to purchase the item more efficiently.
- 4) none of the above.

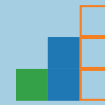
3. FTA encourages grantees to give local suppliers preference over suppliers in other states.

1) True. 2) False.

4. A grantee may make a sole source award in cases where patent or data rights restrictions preclude competition.

1) True. 2) False.

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5. What is the dollar threshold at which grantee must check the Excluded Parties Listing System (EPLS) before awarding a contract?

- 1) \$2,000.
- 2) \$3,000.
- 3) \$25,000.
- 4) \$100,000.

6. An independent cost estimate (ICE) must be prepared:

- A) before accepting bids or offers.
- B) when evaluating contract options.
- C) before exercising contract options.

- 1) A. 2) A & C. 3) all of the above 4) none of the above

7. FTA assisted property that requires the use of coins or currency in public transportation service or supporting service must be fully capable of accepting and dispensing \$1 coins.

- 1) True. 2) False.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.10: Disadvantaged Business Enterprise



INTRODUCTION

States and their subrecipients must ensure nondiscrimination in the award and administration of DOT-assisted contracts, as described in 49 CFR Part 26. Specifically, recipients who award prime contracts exceeding \$250,000 in FTA funds in a fiscal year (excluding transit vehicle purchases) must have a Disadvantaged Business Enterprise (DBE) program. States and their subrecipients must create a level playing field on which DBEs can compete fairly for contracts; ensure that only firms that fully meet eligibility standards are permitted to participate as DBEs; help remove barriers to DBE participation; and assist the development of firms that can compete successfully in the marketplace outside the DBE program.

Note: DOT issued a notice of proposed rulemaking (NPRM) concerning various modifications to the DBE program in September 2012. It held a public listening session in October 2013 and accepted comments until the end of October 2013, shortly after this curriculum was drafted.

KEY CONCEPTS

- DBE Program Threshold
- DBE Goals
- Administrative Requirements (Fostering Small Businesses, Public Participation, Uniform Report, etc.)
- Oversight of Subrecipients and Contractors
- Certification

The NPRM included three categories of changes: revisions to various DBE forms, modifications to certification provisions, and modifications to other provisions such as good faith efforts and transit vehicle manufacturers. For more details, as well as the issuance of a final rule, see: *Federal Register*, Vol. 77, No. 173. September 6, 2012. “Disadvantage Business Enterprise: Program Implementation Modifications.” <http://www.gpo.gov/fdsys/pkg/FR-2012-09-06/pdf/2012-21231.pdf>.

IMPORTANCE FOR STATE DOT STAFF

DBE regulations apply to all third party contracts that are funded in whole or in part with FTA or FHWA planning, capital, or operating assistance. State DOTs that meet a certain threshold must have a DBE program in place, set overall goals for DBE participation, and monitor their subrecipients and contractors for compliance. Recipients are not eligible to

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receive DOT funding if they fail to establish an approved DBE program or overall goal, or if they fail to implement the program in good faith. The recipient's DBE program is incorporated by reference in its certifications and assurances. Implementation of the program is a legal obligation.

States must monitor the dollar values of their subrecipients' contracting opportunities to determine if any individual subrecipients cross the threshold when a formal DBE program becomes a requirement.

DEFINITIONS

Disadvantaged Business Enterprise (DBE): a for-profit small business (1) that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged (in the case of a corporation, 51 percent of the stock); and (2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged owner(s).

Good Faith Efforts: efforts to achieve a DBE goal or other requirement which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

Primary Industry Classification: the North American Industrial Classification System (NAICS) designation that best describes the primary business of a firm. www.ntis.gov/product/naics.htm.

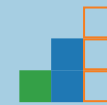
Race-Conscious Measure or Program: focused specifically on assisting DBEs, including women-owned DBEs.

Race/Gender-Neutral Measure or Program: used to assist all small businesses. While benefiting DBEs, such programs are not solely focused on DBE firms.

Set-Aside: restricting eligibility for the competitive award of a contract solely to DBE firms.

Small Business: does not exceed the cap on average annual gross receipts specified in § 26.65(b).

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Socially and Economically Disadvantaged Individual: US citizens or lawfully admitted permanent residents who are: Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or women. Individuals can be deemed socially and economically disadvantaged on a case-by-case basis, and additional groups may be designated by the Small Business Administration.

SUMMARY OF FTA REQUIREMENTS

Written DBE programs are required of recipients of FTA assistance that meet threshold criteria: those that will have contracting opportunities (excluding transit vehicle purchases) exceeding \$250,000 in FTA funds in a fiscal year. If the state meets the threshold, it must submit its program through TEAM-Web for approval by the FTA (the state may be allowed to submit a single plan to FHWA if it receives more funding from FHWA than from FTA). Contracting opportunities are counted in the aggregate, and include purchase orders, capital projects, professional services, Transportation Infrastructure Finance and Innovation Act (TIFIA) loan funded projects, and the contracting activities of subrecipients.

DBE Liaison Officer

The DBE program must be administered by a DBE liaison officer (DBELO) who has direct, independent access to the state's CEO (i.e., the governor) concerning DBE matters. This does not require a direct reporting relationship; it means that the DBELO must be able to communicate to the CEO about DBE program matters without any other person's consent or sign-off. The DBELO should not have a conflict of interest (e.g. s/he is also the procurement director). However, small grantees with limited personnel may provide an explanation for this type of arrangement and how conflict of interest situations are handled. States must also have adequate staff to administer the program.

Basic DBE Program Characteristics

- Administered by a DBE Liaison Officer
- Circulated internally within the agency and externally to contractors
- Includes annual DBE goals
- Requires submission of all awarded/completed contracts through the Uniform Report

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Policy Statement

States must issue a signed and dated policy statement that expresses commitment to the DBE program and outlines its objectives and implementation. This statement must circulate throughout the agency and to DBE and non-DBE contractors.

Program Updates

The DBE program must be updated when significant changes occur (e.g., a change in the DBELO position/CEO reporting relationship).

Transit Vehicle Manufacturer Certifications

States must also require in their DBE programs that all transit vehicle manufacturers (TVMs) bidding on FTA-assisted procurements comply with DBE requirements. FTA certifies that the TVMs meet DBE requirements and issues TVMs DBE certifications. The state and its subrecipients must obtain DBE certifications from all the TVMs with bids submitted; vehicles are not included in the \$250,000 threshold because of this separate process.

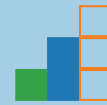
Overall Goals

Recipients meeting the DBE threshold must determine overall three-year agency goals and submit them to the FTA for review every three fiscal years (by the preceding August). The overall goals are a percentage of all FTA funds (except funds for the purchase of transit vehicles) that the state and its subrecipients will expend in FTA-assisted contracts during the period covered. As discussed later in the module, recipients may also need to set goals for individual contracts with subcontracting opportunities, to help attain their overall agency goals.

Goal-Setting

Recipients must set their overall goals based on the availability of ready, willing, and able DBEs relative to all ready, willing, and able businesses (i.e. the “relative availability of DBEs”). The goal must reflect the level of DBE participation that could be expected absent the effects of discrimination.

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Goal Setting

Step 1: Determine a base figure for the relative availability of DBEs. Approaches include:

- Using a DBE directory plus Census data (see the County Business Pattern database at www.census.gov/epcd/cbp/view/cbpview.html), dividing the number of DBEs by the number of all businesses.
- Using a previous year's bidders list, dividing the number of DBEs by the number of all businesses.
- Using a percentage figure from a disparity study.
- Using the goal of another peer DOT recipient.
- Alternative methods.

Step 2: Examine other evidence to adjust the base figure. Types of evidence include:

- The current capacity of DBEs, measured by the volume of work DBEs have recently performed;
- Disparity studies conducted within the jurisdiction; and
- Adjustments based on local markets and program specifics, if the base is from a peer.

Recipients must also consider other available data relating to the opportunities DBEs have to form, grow, and compete (e.g. data on education, training programs, etc.).

U.S. DOT has a national goal that not less than 10 percent of authorized funds are to be expended with DBEs. However, states cannot rely on either this 10 percent national goal, or their previous goals, or past DBE participation rates without reference to the current relative availability of DBEs.

In the goal submission, the state must detail the data sources it uses to determine the number of DBEs and their relative availability.

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The submission must also estimate the portion of the goal the state expects to meet through race/gender-neutral means (as opposed to race/gender-conscious means). Race/gender-neutral means include the following:

- 1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses.
- 2) Providing assistance to overcome limitations such as inability to obtain bonding or financing;
- 3) Providing technical assistance and other services;
- 4) Communicating contracting procedures and specific contract opportunities (e.g., including DBEs on bidder mailing lists, providing information in other languages, etc.);
- 5) Implementing a supportive services program so that DBEs can develop and improve business management, record keeping, and financial and accounting capabilities;
- 6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
- 7) Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
- 8) Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
- 9) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

Both the state's contracting activities and those of its subrecipients should be incorporated into the overall agency goal-setting.

Achieving Goals

States must meet the maximum feasible portion of their overall goals through race/gender-neutral means. However, the remaining portion of the overall goal can be met through race/gender-conscious means ("contract goals").

Recipients must establish contract goals to meet any portion of the agency's overall goal it does not project being able to meet using race-neutral means. Contract goals are not required on every DOT-assisted contract, and may only be used on those DOT-assisted

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contracts that have subcontracting possibilities. The goal for a specific contract may be higher or lower than that percentage level of the overall goal, depending on such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract. However, over the period covered by a recipient's overall goal, the recipient must set contract goals so that they will cumulatively result in meeting any portion of the overall goal the agency projects being unable to meet through the use of race-neutral means.

The recipient should make adjustments throughout the year, increasing or decreasing the use of race/gender-neutral and/or race/gender-conscious means in order to achieve the overall goal. Note that your state may have state-specific requirements related to DBE goals beyond the federal requirements.

Bidders List

To facilitate goal setting, states must also create and maintain a bidders list with information on all DBE and non-DBEs seeking contract work (including firm name, address, DBE status, age, and annual gross receipts). Information for the bidders list can come from a variety of sources (e.g. collect information from all bidders, conduct a statistically sound survey, etc.).

Fostering Small Business Participation

As an additional requirement (in place since 2012), states must include and implement an element in their DBE programs for fostering small business participation. The element must have strategies to eliminate obstacles to small businesses (e.g. no unnecessary/unjustified bundling of contract requirements).

Strategies for this element include:

- Establish a race and gender-neutral small business set-aside for prime contracts under a stated amount.
- In multi-year design-build contracts or other large contracts, require bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.
- On prime contracts not having DBE contract goals, require the prime contractor to provide subcontracting opportunities of a

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size that small businesses, including DBEs, can reasonably perform, rather than self performing all the work involved.

- Identify alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.
- To meet the race-neutral portion of overall agency goal, ensure that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

Public Participation

In establishing an overall three-year goal, states must provide for public participation. The public participation process must include:

- 1) Consultation with minority, women's, and general contractor groups, community organizations, and other officials or organizations that may have information on the availability of DBEs/non-DBEs, and the effects of discrimination on opportunities for DBEs.
- 2) A notice (published in general circulation media, available minority-focused media, and trade association publications) announcing the proposed overall goal and its availability for inspection for 30 days. The notice must also publicize a 45 day comment period.

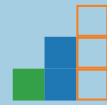
Reporting Requirements

Threshold recipients must submit a Uniform Report of DBE Awards or Commitments and Payments (see Appendix B of 49 CFR 26) semi-annually in TEAM-Web. The Uniform Report details all awarded and completed contracts for the state and its subrecipients, to both DBEs and non-DBEs. If the Uniform Report shows that the awards and commitments were less than the overall goal for that year, the recipient must do the following to demonstrate that they are implementing the DBE program in good faith:

- 1) Analyze in detail the reasons for the difference (a shortfall analysis).
- 2) Establish specific steps and milestones to correct the problems in the next fiscal year.

The 50 largest transit authorities (as determined by the FTA) must submit, within 90 days of the end of the fiscal year, these analyses

Module 2.10: Disadvantaged Business Enterprise



and corrective actions for approval. All others must retain the analyses and corrective actions for three years in case the FTA requests to review them.

Monitoring Requirements

In addition to their own responsibilities, states must monitor their subrecipients and contractors for compliance with DBE regulations (this process should be detailed in the state's DBE program).

For its own contractors, the state must:

- Include a written certification that it has reviewed contracting/payroll records and monitored work sites to ensure that DBEs are actually performing the work committed to them.
- Tally actual payments made to DBE firms in comparison to commitments.
- Promptly pay DBE invoices.
- Obtain certifications from TVMs.
- Ensure that prime contractors do not terminate or substitute a DBE subcontractor listed on a contract with a DBE goal without good cause and prior written consent.

If the state has DBE contract goals, it must award contracts only to bidders who make good faith efforts to obtain DBE participation. This means that the state must judge if the bidder has either met the goal or has taken necessary and reasonable steps to try to achieve the goal (see Appendix A of 49 CFR 26 for examples of good faith efforts). However, the state cannot deny a contract on the basis that the bidder failed to meet a DBE contract goal.

Subrecipients must be monitored by states to ensure inclusion of required contract clauses as well as to ensure they are monitoring their own contractors for adherence to DBE commitments. States should:

- Monitor the dollar values of their subrecipients' contracting opportunities to determine if any individual subrecipients cross the \$250,000 threshold when a formal DBE program becomes a requirement.

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- Ensure that subrecipients exceeding the \$250,000 threshold prepare and submit a DBE program, which the state is responsible for reviewing and approving.
- Monitor subrecipients requiring a DBE program to ensure that they:
 - designate a DBELO who has direct, independent access to the subrecipient's CEO concerning DBE matters.
 - have a signed and dated policy statement that expresses commitment to the DBE program and outlines its objectives and implementation. This statement must circulate throughout the agency and to DBE and non-DBE contractors.
 - update their DBE program when significant changes occur (e.g., a change in the DBELO position/CEO reporting relationship).
 - establish and update an overall agency program goal set by the subrecipient.
 - maintain a bidders list.
 - for vehicle procurements, obtain DBE certifications from all the TVMs with bids submitted
 - submit a Uniform Report of DBE Awards or Commitments and Payments to state at least semi-annually.
 - monitor their own subrecipients, contractors and subcontractors for DBE compliance.

Certifying DBEs

States must participate in a Unified Certification Program (UCP), if not as the certifying agency itself than as a signatory to the UCP agreement. The certification procedures help ensure that only eligible DBEs participate in the DBE program.

If the state certifies DBEs itself, it must:

- Use the correct application form, instructions and document checklist;
- Conduct site visits prior to certification;
- Obtain annual affidavits from each certified DBE affirming that the DBE continues to meet the eligibility criteria of the regulation;
- Comply with Interstate Certification requirements; and
- Include the NAICS codes of DBEs in the UCP directory.

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SUPPLEMENTAL NOTES

One of the objectives of the DBE regulations is to help remove barriers to the participation of DBEs in DOT-assisted contracts. However, in some cases, DBE firms may be overconcentrated in a certain field of work to such an extent that they unduly burden the opportunity of non-DBE firms to participate. States must then take measures to address the overconcentration, using incentives, technical assistance, business development programs, and/or mentor-protégé programs. Once approved by DOT, these measures become part of the state's DBE program.

U.S. DOT published a notice of proposed rulemaking on 49 CFR Part 26 on Sep. 6, 2012. If adopted, the new regulations will impact required forms, certification -related provisions, good faith efforts, and transit vehicle manufacturers. At the time this curriculum was developed, a final rule had not been released, and the requirements outlined in this document do not reflect the proposed changes.

TIPS ON RELATIONSHIPS TO OTHER MODULES

DBE requirements are a subset of the requirements related to procurement; they are discussed as a standalone unit because of their complexity. DBE requirements are also conceptually related to other civil rights requirements (such as Title VI, EEO, and ADA) that seek to ensure that federally funded programs and services are nondiscriminatory; DBE requirements are designed to ensure that business opportunities offered by FTA funding recipients are nondiscriminatory. FTA's Office of Civil Rights oversees all of these requirements.

LINKS/INFO

- 49 CFR 26, Participation by Disadvantage Business Enterprises in DOT Financial Assistance Programs. <http://www.ecfr.gov>.
- NTI Course on Disadvantaged Business Enterprise. <http://www.ntionline.com/courses/list.php>.

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- FTA Disadvantaged Business Enterprise Website. <http://www.fta.dot.gov/civilrights/12326.html>.
- Guidance to Complete New DBE Implementation Plans. http://www.fta.dot.gov/12326_14267.html.
- OSDBU's Guidance for DBE Program Administrators. <http://www.dot.gov/osdbu/disadvantaged-business-enterprise/guidance-dbe-program-administrators>.
- Federal Register, Vol. 77, No. 173. September 6, 2012. "Disadvantage Business Enterprise: Program Implementation Modifications." <http://www.gpo.gov/fdsys/pkg/FR-2012-09-06/pdf/2012-21231.pdf>.

QUIZ

1. States are required to set contract goals on all DOT-assisted contracts.

1) True. 2) False.

2. In setting DBE overall goals, recipients should:

- A) Use the 10 percent national goal
- B) Base the goal on past DBE participation rates
- C) Determine the relative availability of DBEs in the market
- D) Use a variety of evidence to adjust the base figure for the relative availability of DBEs

1) A. 2) B. 3) B. & C. 4) C. & D.

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3. Which of the following are strategies recommended by FTA to support participation by DBEs and small businesses?

- A) Requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self performing all the work involved
- B) Bundling as many contract opportunities as possible into a single solicitation
- C) Requiring prompt payment of DBE subcontractor invoices
- D) Designating geographic preferences

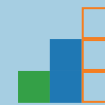
1) A. 2) A. & B. 3) A. & C. 4) all of the above.

4. States are required to ensure that subrecipients monitor DBE compliance of their contractors and subcontractors to ensure that their DBE obligations are fulfilled.

- 1) True for all subrecipients.
- 2) True for subrecipients with FTA-funded contracting opportunities (excluding transit vehicle purchases exceeding \$250,000 in a Federal fiscal year).
- 3) False.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.11: Buy America and Vehicle Requirements



INTRODUCTION

Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA funded projects are produced in the United States. Grantees must conduct pre-award and post-delivery audits of purchases of revenue rolling stock (vehicles) in order to verify that Buy America provisions, Federal Motor Vehicle Safety Standards, and purchaser's requirements are met.

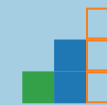
As part of each application to FTA for the purchase or lease of any new bus model, or any bus model with a major change in configuration or components, the recipient must certify that the bus was tested at the FTA bus testing facility. Prior to final acceptance of the first vehicle manufactured in a procurement, the FTA grantee must obtain a copy of the test report under the FTA Bus Testing Program.

The statutes and regulations governing Buy America and procurement requirements specific to vehicles include:

- 49 CFR Part 571, "Federal Motor Vehicle Safety Standards"
- 49 CFR Part 661, "Buy America Requirements"
- 49 CFR Part 663, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases"
- FTA "Dear Colleague" Letter, March 18, 1997
- Federal Register Vol. 71, No. 54, pp. 14112-14118, Buy America Requirements; Amendments to Definitions
- Federal Register Vol. 72, No. 182, pp. 53688-53698, Buy America Requirements; End Product Analysis and Waiver Procedures, Final Rule
- Federal Register Vol. 72, No. 188, pp. 55103-55104, Buy America Requirements; End Product Analysis and Waiver Procedures, Final Rule correction
- Federal Register Vol. 77, No. 28, pp. 71673 -71678, Decision To Rescind Buy America Waiver for Minivans and Minivan Chassis
- 49 USC Section 5318, Bus testing facility
- 49 CFR Part 665, "Bus Testing"

More details are found within FTA C 4220.1F - Third Party Contracting Guidance.

Module 2.11: Buy America and Vehicle Requirements



KEY CONCEPTS

A very brief summary of steps involved for FTA-funded solicitations valued \$100,000 or more includes:

1. Apply for FTA funding.
2. Execute grant agreement.
3. Develop IFB or RFP.
4. Advertise solicitation.
5. Evaluated bids or proposals received.
6. Select best bid/proposal.
7. Conduct pre-award review.
8. Award contract.
9. Order vehicles.
10. If contract is for more than 10 vehicles, conduct on-site inspections during manufacture.
11. Conduct post-delivery review.
12. Accept vehicles.

IMPORTANCE FOR STATE DOT STAFF

States are responsible for monitoring that subrecipients establish and follow their own federally-compliant procurement policies and procedures for making purchases. FTA reserves the right to decline to participate in (i.e., deny funding for) the costs of third party procurements that fail to comply with federal laws, regulations, or the terms of the recipient's underlying grant or cooperative agreement.

Procuring Vehicles Takes Time

The act of buying a transit vehicle using FTA funds is a rather lengthy process, and states and subrecipients need to consider this when planning services that require new vehicles, as well as for planning replacements of existing assets.

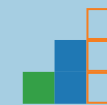
It is not unusual for an FTA-funded vehicle purchase to take 12-18 months to complete (with transit coaches generally taking longer than smaller paratransit vehicles), from the time the IFB or RFP is issued until new vehicles can be put into service. The development of the IFB or RFP itself takes time, as detailed technical and performance specifications need to be included.

DEFINITIONS

Component: Any article, material, or supply, that is directly incorporated into an end product at the final assembly location.

Manufactured product: an item produced as a result of the manufacturing process.

Module 2.11: Buy America and Vehicle Requirements



Manufacturing process means the application of processes to alter the form or function of materials or of elements of the product in a manner adding value and transforming those materials or elements so that they represent a new end product functionally different from that which would result from mere assembly of the elements or materials.

Post-delivery: The period during the procurement process beginning with the signing of a formal contract with the selected contractor. It includes the period of bus manufacturing, inspection, testing, and delivery. It ends with bus title transfer or the placement of the buses into revenue service, whichever is first.

Pre-award: The period during the procurement process before the recipient enters into a formal contract with the supplier.

Rolling stock: transit vehicles such as buses, vans, cars, railcars, locomotives, trolley cars, and ferry boats, as well as vehicles used for support services.

Subcomponent: Any article, material, or supply that is one step removed from a component.

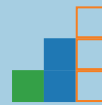
Unmodified van: A primary manufacturer's standard production van that requires no further manufacturing operations to perform its intended function, other than the addition, substitution, or removal of readily available attachable components (such as mirrors, or tire and rim assemblies), or minor finishing operations (such as painting).

SUMMARY OF FTA REQUIREMENTS

Buy America Requirements

Buy America regulations are found in 49 CFR 661 and 49 CFR 663. FTA provided guidance to grantees through its "Dear Colleague" letter C-97-03 dated March 18, 1997.

Buy America regulations require that all procurements of steel, iron, and manufactured products, except for those subject to an FTA waiver, contain Buy America provisions. Waivers are listed in Appendix A to 49 CFR 661.7 and include microcomputer equipment



Module 2.11: Buy America and Vehicle Requirements

and software and purchases under \$100,000. The small purchase limitation is based on the value of the procurement, not the price of the item. For example, a purchase of four vans that totals \$120,000, even though each van costs \$30,000, must comply with the Buy America requirements. Grantees may not split procurements that exceed the threshold in order to avoid Buy America requirements. For construction projects and projects involving the installation of manufactured products, the threshold is based on the total value of the project, not the value of the steel, iron, and manufactured products purchased for the project.

The requirements apply to subcontractors, regardless of the size of their contract, if the prime contract is more than \$100,000. The requirements apply when a subrecipient jointly purchases manufactured products. Subrecipients are required to pass the requirements down to management or service contractors when the contractor is making FTA funded procurements on the subrecipient's behalf.

For vehicle procurements, compliance with Buy America regulations involves several activities:

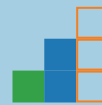
- Buy America Clause and Certification in the Procurement Solicitation
- Pre-Award Review
- On-Site Inspection
- Post-Delivery Review

Clause and Certification in the Procurement Solicitation

The grantee must include a clause citing the Buy America requirement and a Buy America certification in its IFBs and RFPs. There are different certifications for procurements of rolling stock (vehicles) than for procurements of other steel, iron, or manufactured products. As part of the bid or proposal, the contractor is required to certify that the materials provided either comply or do not comply with Buy America requirements. If a bidder or offeror certifies that it does not comply with the Buy America requirements, then the grantee must request, receive, and retain a waiver from FTA before it may award a contract to that bidder or offeror.

Pre-Award Review

Before the contract is awarded, the grantee must review information on Buy America compliance submitted by the manufacturer, including proposed domestic content of vehicle components (to determine that the 60 percent United States content requirement



Module 2.11: Buy America and Vehicle Requirements

is met), the proposed final assembly location, and manufacturing activities that will take place during final assembly. In the case of a new bus, final assembly would typically include, at a minimum, the installation and interconnection of the engine, transmission, axles, including the cooling and braking systems; the installation and interconnection of the heating and air conditioning equipment; the installation of pneumatic and electrical systems, door systems, passenger seats, passenger grab rails, destination signs, wheelchair lifts; and road testing, final inspection, repairs and preparation of the vehicles for delivery.

On-Site Inspection

The grantee is required to have an on-site inspector to conduct inspections during and after manufacturing for bus procurements, excluding those that are:

- 10 or fewer vehicles serving large urbanized areas
- 20 or fewer vehicles serving rural and small urbanized areas (200,000 people or fewer)
- Unmodified vans

Post-Delivery Review

Following delivery of each vehicle, the grantee is required to review actual component content to ensure that the vehicle meets the 60 percent Buy America domestic content requirement, check that the final assembly location is in the United States and the manufacturer's final assembly activities meet the requirements outlined in the March 18, 1997 "Dear Colleague" letter and in 49 CFR 661.

Additional Requirements Specific to Vehicle Procurements

In addition to the pre-award and post-delivery audit requirements under Buy America for purchases above \$100,000, two other sets of certifications are required for FTA-funded vehicle purchases at any dollar value, even those under \$100,000.

Module 2.11: Buy America and Vehicle Requirements



Certification of Compliance with Federal Motor Vehicle Safety Standards (FMVSS)

When purchasing motor vehicles, 49 CFR 663.41 requires that the grantee:

- Obtain, at both the pre-award and post-delivery stages, certification from the manufacturer that the vehicle complies with relevant FMVSS (49 CFR Part 571).
- Complete, at the post-delivery stage, a certification that the grantee has received from the vehicle manufacturer at both the pre-award and post-delivery stages a certification that the vehicles comply with the FMVSS issued by the National Highway Traffic Safety Administration (49 CFR Part 571). The requirement to conduct an audit for compliance with FMVSS and sign a certification applies to all purchases of revenue rolling stock, even those under \$100,000.

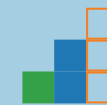
Purchaser's Requirements

The grantee must complete a pre-award purchaser's requirements certification verifying that the manufacturer's bid specifications comply with the grantee's solicitation requirements and that the proposed manufacturer is responsible and capable of building the bus to the solicitation specifications. The pre-award certification may be based on the grantee's determination that the vendor is responsive and responsible.

Bus Testing Requirements

Under 49 CFR Part 665, "Bus Testing," as part of each application to FTA for the purchase or lease of any new bus model, or any bus model with a major change in configuration or components, the recipient must certify that the bus was tested at the FTA bus testing facility. Prior to final acceptance of the first vehicle manufactured in a procurement, the FTA grantee must obtain a copy of the test report under the FTA Bus Testing Program.

Module 2.11: Buy America and Vehicle Requirements



A recipient of FTA capital assistance is responsible for:

- Determining whether a vehicle it plans to acquire is subject to the requirements of Part 665, and if it is, how to achieve compliance with those requirements.
- Certifying to FTA that any new bus model acquired with financial assistance from FTA has been tested in accordance with the requirements of Part 665.
- Certifying that it has received a copy of the applicable Bus Testing Report(s) before expenditure of any FTA funding on a bus.

MAP-21 amended the bus testing provisions under 49 U.S.C. 5318 to require that FTA establish a pass/fail testing standard. FTA funds will be available to acquire a new bus model only if it has received a passing score. This requirement will take effect after FTA has issued regulations establishing the standard. A final rule on the new standards is due no later than two years after the passage of MAP-21.

Disadvantaged Business Enterprise (DBE) Certifications for Transit Vehicle Manufacturers (TVMs)

All TVMs bidding on FTA-assisted procurements must comply with DBE requirements. The grantee must obtain DBE certifications from all the TVMs with bids submitted. For more information on DBE requirements, refer to the DBE module.

Period of Performance (Contract Time Limits)

Procurements of non-rail rolling stock and replacement part contracts are limited by law to five years, including option years.

SUPPLEMENTAL NOTES

The American Public Transportation Association (APTA) developed the following materials specific to bus procurement:

- Standard Bus Procurement Guidelines RFP (updated in May 2013, anticipated to go through the APTA adoption process in 2014). This template provides details for the procurement of transit buses at least 30 feet in length and contains language for

Module 2.11: Buy America and Vehicle Requirements



FTA requirements that apply to vehicle procurements (including general requirements such as FTA contract clauses, not just vehicle-specific requirements). <http://www.apta.com/resources/standards/Documents/APTA%20Bus%20Procurement%20Guidelines.pdf>

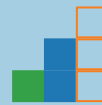
- Recommended Practice: In-Plant Inspection for Bus Procurements (March 2011). <http://www.apta.com/resources/standards/Documents/APTA-BTS-II-RP-001-11.pdf>

TIPS ON RELATIONSHIPS TO OTHER MODULES

Other procurement requirements are addressed in Introduction to Procurement, Procurement Policies, Process, and History, and DBE.

LINKS/INFO

- FTA Buy America webpage. http://www.fta.dot.gov/legislation_law/12921.html
- FTA Online Handbook: Conducting Pre-Award and Post-Delivery Audits for Bus Procurements. http://www.fta.dot.gov/legislation_law/12921_5423.html
- FTA Guidance: “Procurements Following Rescission of the Buy America Waiver for Minivans.” http://www.fta.dot.gov/documents/2013-2-14_Minivan_Guidance.pdf
- APTA Standard Bus Procurement Guidelines RFP template. <http://www.apta.com/resources/standards/Documents/APTA%20Bus%20Procurement%20Guidelines.pdf>
- NTI Bus Procurement Workshop: <http://www.ntionline.com/courses/courseinfo.php?id=23>



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- FTA's Best Practices Procurement Manual. http://www.fta.dot.gov/grants/13054_6037.html
- FTA Bus Testing web page. <http://www.fta.dot.gov/bustesting>
- Bus Test Reports. <http://146.186.225.57/test-reports.htm>

QUIZ

1. Microcomputer equipment and software are waived from Buy America requirements.

1) True. 2) False.

2. Under Buy America, which of the following are required for bus procurements valued at \$100,000?

- A) Buy America Clause and Certification in the Procurement Solicitation
- B) Pre-Award Review
- C) On-Site Inspection
- D) Post-Delivery Review

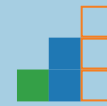
1) A. 2) A & D. 3) All of the above. 4) None of the above.

3. A rural transit system is required to have an on-site inspector for procurements of 20 vehicles.

1) True. 2) False.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.12: State and Metropolitan Planning



INTRODUCTION

Transportation planning plays a fundamental role in a state, region, or community's vision for its future. Effective transportation planning includes a comprehensive consideration of possible strategies, an evaluation process that encompasses diverse viewpoints, the collaborative participation of relevant transportation-related agencies and organizations, and open, timely, and meaningful public involvement.

Maintaining, enhancing, and planning for a multi-modal transportation system involves numerous actors at the state, regional, metropolitan, and local levels. As the actors have varied resources, responsibilities, and priorities for the system, the federal government (i.e. FTA and FHWA) has an interest in encouraging coordination and consistency among transportation planning efforts. State DOTs and their subrecipients can draw on federal formula funding for planning through S. 5303 (Metropolitan Transportation Planning), S. 5304 (Statewide and Nonmetropolitan Transportation Planning) and S. 5305 (Planning Programs- Metropolitan Planning and State Planning and Research). These programs come with requirements to help ensure that the planning process is continuing, cooperative, and comprehensive across all levels.

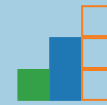
KEY CONCEPTS

- Introduction to FTA-Required State and Local Planning Activities and their Inter-Relationships
- MPO Planning
- Statewide and Nonmetropolitan Planning
- State and Regional Public Participation Methods
- State Program of Projects
- Transit Performance Evaluation

In urbanized areas, the transportation planning process is conducted by a Metropolitan Planning Organization (MPO), in cooperation with the state DOT and transit providers. In rural areas, transportation planning processes are carried out by the state, in cooperation with local officials in non-metropolitan areas and transit providers. FTA and FHWA jointly administer the federally required transportation planning processes in metropolitan areas, as set forth in 49 USC 5303 and 23 USC 134. In rural areas and on a statewide basis, the statutory provisions for transportation planning are set forth in 49 USC 5304 and 23 USC 135.

This module presents general state and regional/metropolitan planning requirements that state transit staff should be familiar with. Locally-focused transit planning is addressed separately in the Local Planning module.

Module 2.12: State and Metropolitan Planning



IMPORTANCE FOR STATE DOT STAFF

State DOTs must coordinate the statewide planning process with the planning activities of their MPOs, as well as with local officials and regional organizations responsible for transportation in non-metropolitan areas. Likewise, they must ensure that MPOs carry out the metropolitan planning process in coordination with the statewide process and with “due consideration of other related planning activities within the metropolitan area.” State DOTs are also responsible for statewide transit planning and for transit planning efforts in non-urbanized areas, i.e., development of the STIP. As designated recipients of planning funding under S. 5303, 5304, and 5305, states must fulfill their planning responsibilities while simultaneously accounting for the activities and concerns of multiple interested parties.

DEFINITIONS

Fiscal Constraint: a demonstration of sufficient funds (federal, state, local, and private) to implement proposed transportation system improvements, as well as to operate and maintain the entire system.

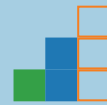
Long-Range Statewide Transportation Plan: the State’s official, statewide, multimodal transportation plan covering a period of no less than 20 years, developed through the statewide transportation planning process.

Metropolitan Planning Program (MPP): the federal financial assistance provided by FTA, under S. 5305, to support work activities necessary to conduct the federally required metropolitan transportation planning process.

Metropolitan Planning Organization (MPO): a federally designated organization charged with carrying out the transportation planning process for an urbanized area with a population of 50,000 or more.

Metropolitan Transportation Plan (MTP): the official multimodal transportation plan addressing no less than a 20-year planning horizon that is developed, adopted, and updated by the MPO.

Module 2.12: State and Metropolitan Planning



State Planning and Research Program (SPRP): the federal financial assistance provided by FTA under S. 5305 to support work activities necessary to conduct the federally required statewide transportation planning.

Statewide Transportation Improvement Program (STIP): a statewide prioritized program of federally-funded transportation projects covering a period of four years that is consistent with the Long-Range Statewide Transportation Plan, MTPs, and Transportation Improvement Programs (TIPs), and required for projects to be eligible for funding.

Transportation Improvement Program (TIP): a prioritized listing/program of transportation projects covering a period of at least four years that is developed and formally adopted by an MPO as part of the metropolitan transportation planning process, consistent with the MTP, and required for projects to be eligible for funding.

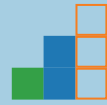
Unified Planning Work Program (UPWP): a program of work produced by an MPO that identifies the planning priorities and activities to be carried out during the next one to two years.

DETAILS ON FTA REQUIREMENTS

Introduction to FTA-Required State and Local Planning Activities and Their Inter-Relationships

As a condition of receiving federal funds, state DOTs and their sub-recipients must conduct a continuing, comprehensive, and coordinated multi-modal transportation planning process in metropolitan areas and statewide (“3-C” for short). Eight planning factors define the scope of the process, required for consideration during the development of transportation plans and programs. The factors under MAP-21 (unchanged from SAFETEA-LU) are:

- 1) Support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;
- 2) Increase the safety of the transportation system for motorized and nonmotorized users;
- 3) Increase the security of the transportation system for motorized and nonmotorized users;



Module 2.12: State and Metropolitan Planning

- 4) Increase the accessibility and mobility of people and for freight;
- 5) Protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and state and local planned growth and economic development patterns;
- 6) Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;
- 7) Promote efficient system management and operation; and
- 8) Emphasize the preservation of the existing transportation system.

The development of long-range plans and short-range programs of transportation investment priorities is a large part of the planning process. As noted above, FTA and FHWA jointly administer S. 5303, 5304, and 5305 to support planning activities. Under S. 5304, each state must carry out a 3-C statewide multimodal transportation planning process that addresses the eight planning factors, including the development of a long-range statewide transportation plan (LRSTP) and a statewide transportation improvement program (STIP). The state must develop and use a documented public involvement process that provides opportunities for public review and comment at key decision points. Under S. 5303, each MPO must do the same at the metropolitan level, including the development of a metropolitan transportation plan (MTP) and a transportation improvement program (TIP).

As the term 3-C suggests, FTA-required planning activities are intended to be developed in consultation with and with consideration for other transportation plans and activities, including those at the local level. For example, the STIP corresponds to the projects included in the TIPs of the state's MPOs. In addition, the local coordinated public transit-human services plan should reflect metropolitan and statewide plans, and vice versa.

MPO Planning

See 49 USC 5303 (Metropolitan Transportation Planning) and 49 USC 5305 (Metropolitan Planning Program) for more details.

First mandated by the Federal-Aid Highway Act of 1973, MPOs are federally designated organizations required in every urbanized area (UZA) with a population of 50,000 or more. MPOs are intended to be forums for metropolitan transportation decision making and investment, both for transit and other modes. Policy boards composed of local elected officials, public agencies, and state transportation officials head MPOs, and MPO staff and various advisory committees support the boards.

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Key MPO planning functions include:

- Preparing a long-range transportation plan (LRTP), aka metropolitan transportation plan (MTP), aka constrained long-range transportation plan (CLRTP/CLRP)
- Preparing a complementary short-term transportation improvement program (TIP)
- Preparing a unified planning work program (UPWP)
- Preparing and carrying out a public participation plan

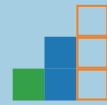
Another MPO responsibility deals with coordinating transportation and air quality planning in accordance with the Clean Air Act. If a metropolitan area is designated by the EPA as an air quality nonattainment area (not meeting federal air quality standards) or air quality maintenance area (currently meeting federal air quality standards but previously in violation), all transportation plans, programs, and projects must conform to the state's air quality plan, known as the State Implementation Plan (SIP). Only transportation projects that meet these air quality goals are eligible for federal funding.

In addition to air quality, MPOs with populations greater than 200,000 are also responsible for congestion planning. MPOs that meet this threshold are designated as transportation management areas (TMAs) and must have a congestion management process (CMP) in place that identifies actions and strategies to reduce congestion and increase mobility (e.g. transportation demand management).

Importantly, the LRTP/MTP and the TIP are fiscally-constrained, meaning that both must reflect available resources. According to 29 CFR Part 450, these plans "shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project."

Elements of the LRTP/MTP include:

1. Identification of existing and proposed transportation facilities
2. Performance measures and targets
3. A system performance report
4. Consideration of potential environmental mitigation activities



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5. A financial plan for implementation
6. Operational and management strategies
7. Capital investment and other strategies
8. Consideration of the CMP (for TMAs)
9. Scenario development (optional)

The TIP is a management tool for monitoring progress in implementing the LRTP/MTP. It identifies funding sources and timing for specific projects, and only projects proposed in the TIP are eligible to receive federal funds. The first year of the TIP constitutes an “agreed to” list of projects for selection purposes.

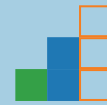
For each project or project phase, the TIP must include:

1. A project description
2. An estimated total project cost
3. An amount of federal funds proposed to be obligated for each year
4. The responsible agencies
5. Performance target achievement (i.e. linking the project to the targets)

Metropolitan Planning Program funds under S. 5305 are available for MPOs to carry out the planning process and develop the required plans. However, the MPO is a subrecipient of the state for this assistance. As the designated recipient, the state submits a single grant application to the FTA on behalf of its MPOs and then allocates the funding based on an FTA-approved formula. Metropolitan Planning Program funds are based on the activities described in the UPWP.

The Census Bureau’s designation of UZAs occurs with every decennial Census and has significant implications for MPO planning. As a result of the 2010 Census, 36 new urbanized areas were identified (above the 384 existing MPOs). These areas are either establishing and staffing a new MPO, or merging with an existing MPO. A total of 27 new TMAs were designated (above the 155 existing) as a result of increases in population or because of splits or mergers of urbanized areas within existing metropolitan planning area boundaries.

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Statewide and Nonmetropolitan Planning

See 49 USC 5304 (Statewide and Nonmetropolitan Transportation Planning) and 49 USC 5305 (State Planning and Research Program) for more details.

States are the designated recipients and only entities eligible to apply for and receive S. 5305 (Metropolitan Planning Program and State Planning and Research Program) funds directly from FTA. State DOTs can use these funds to carry out statewide transportation planning and to develop the LRSTP and the STIP, documents comparable to the LRTP and the TIP at the metropolitan level.

Key state DOT planning functions include:

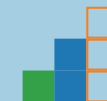
- Preparing a long-range statewide transportation plan (LRSTP)
- Preparing a statewide transportation improvement program (STIP)
- Preparing and carrying out a public participation plan

The LRTSP must be developed in cooperation with the state's MPOs, and in consultation with non-metropolitan officials and any tribal governments. Elements of the LRTSP include:

1. Strategies, investments, procedures, and other measures for the preservation and use of the existing system
2. Reference to applicable short-range plans and studies
3. A discussion of potential environmental mitigation activities
4. A financial plan for implementation (optional)
5. Performance measures and targets, and a system performance report

For short-range planning, the STIP identifies funding sources and timing for specific projects. Again, like the TIP, the STIP is fiscally constrained. At least every four years, states must submit an updated STIP to FTA and FHWA for joint approval. Only projects in a FHWA/FTA approved STIP are eligible for federal funding.

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The STIP must include the following for each project or project phase:

1. A project description
2. An estimated total project cost
3. An amount of federal funds proposed to be obligated for each year
4. The responsible agencies
5. Performance target achievement (i.e. linking the project to the targets)

Key Statewide and Regional Planning Documents

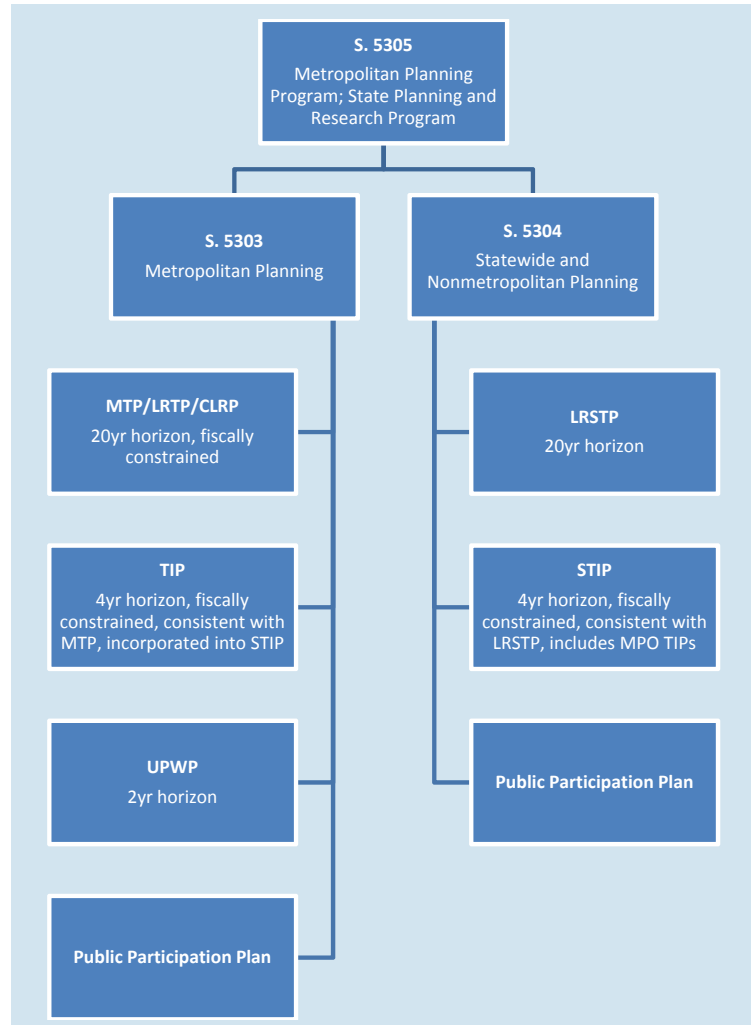
	<i>Who Develops?</i>	<i>Who Approves?</i>	<i>Time Horizon</i>	<i>Content</i>	<i>Update Requirements</i>
UPWP	MPO	MPO	1 or 2 yrs	Planning studies and tasks	Every 1-2 yrs
LRTP/MTP	MPO	MPO	20 yrs	Future goals, strategies, and projects	Every 5 yrs, every 4 for non-attainment/maintenance areas
TIP	MPO	MPO and State DOT	4 yrs	Transportation investments	Every 4 yrs (may be amended several times per yr)
LRSTP	State DOT	State DOT	20 yrs	Future goals, strategies, and projects	Not specified
STIP	State DOT	State DOT and US DOT (FTA/FHWA)	4 yrs	Transportation investments	Every 4 yrs (may be amended several times per yr)

Source: *The Transportation Planning Process: Key Issues*. September 2007.
<http://www.planning.dot.gov/documents/briefingbook/bbook.htm>

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FTA-Required Planning for States and MPOs at a Glance



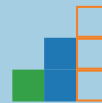
State and Regional Public Participation Methods

Transportation planning is a cooperative process designed to foster involvement by all users of the system, such as businesses, community groups, environmental organizations, the traveling public, freight operators, and the general public, through a proactive public participation process.

Both the state and its MPOs have responsibilities regarding public participation while carrying out statewide and metropolitan planning processes (see 23 CFR 450.210 and 450.316 for more details). Both must document and use a public involvement plan that details strategies for engaging the public and responding to input. The plan should allow for participation by interested parties: citizens; public agencies; freight transportation providers; private transportation providers; and representatives of public transportation employees, public transit users, pedestrians, bicyclists, and individuals with disabilities. An example of participation includes providing the public with reasonable opportunities to review and comment on proposed plans (the LRTP/MTP, TIP, LRSTP, STIP, etc.).

At a minimum, the state and MPO public involvement process must:

- Establish early and continuous public involvement opportunities
- Provide reasonable public access to technical and policy information
- Provide adequate public notice of public involvement activities and time for public review and comment at key decision points



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- Hold public meetings at convenient and accessible locations and times
- Employ visualization techniques to describe proposed plans
- Make public information available in electronically accessible formats and means
- Demonstrate explicit consideration and response to public input during plan development
- Include a process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low- income and minority households
- Periodically review the effectiveness of the public involvement process to ensure that it provides full and open access to all interested parties, revising as appropriate

The state and the MPO must also consult interested parties when developing or revising the plan itself, allowing at least a 45 day review and comment period before adopting major changes to public involvement procedures.

Subrecipients also have public participation requirements that are addressed in the Public Participation and Local Planning modules.

State Program of Projects

Each state develops a Program of Projects (POP) as part of its annual application to FTA. Projects within the POP must be consistent with the STIP as well as the TIP for metropolitan areas in which proposed projects are located. The state develops its annual POP based on the subrecipient grant applications and locally developed public transit-human services transportation plans. For more information on state POPs, see the FTA Grant Administration module.

Transit Performance Evaluation

MAP-21 legislation places new emphasis on “a performance-driven, outcome-based approach” to both metropolitan and statewide planning, as described in Sections 5303 and 5304. The states and MPOs must establish performance targets to use in tracking progress towards the attainment of critical outcomes, integrating other performance-based plans (e.g. plans developed by subrecipients) into the planning process. The performance measures themselves have yet to be established; MAP-21 mandates that U.S. DOT establish these no later than Oct. 1, 2013.

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Performance targets must be included in FTA-required plans (the LRTP/MTP, TIP, LRSTP, and STIP), and should:

1. Be coordinated with the state (for MPOs) or MPOs (for the state).
2. Be coordinated with public transportation providers.
3. Be consistent with performance targets related to transit asset management (49 US 5326) and transit safety (49 USC 5329).

TIPS ON RELATIONSHIPS TO OTHER MODULES

Locally-focused transit planning is addressed separately in the Local Planning module. The Public Participation module also addresses planning concepts.

LINKS/INFO

- FTA Circular 8100.1C, Program Guidance for Metropolitan Planning and State Planning and Research Program Grants. September 1, 2008. http://www.fta.dot.gov/legislation_law/12349.html.
- Federal Register, Vol. 72, No. 30. February 14, 2007. "Statewide Transportation Planning; Metropolitan Transportation Planning."
- The Transportation Planning Process: Key Issues. A Briefing Book for Transportation Decisionmakers, Officials, and Staff. September 2007. <http://www.planning.dot.gov/documents/briefingbook/bbook.htm>
- USDOT Metropolitan Planning Organization (MPO) Database. <http://www.planning.dot.gov/mpo.asp>.
- NTI Planning courses. http://ntionline.com/courses/list.php?program_id=4

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QUIZ

1. MPOs are required in urbanized areas with populations of 50,000 or more.

1) True. 2) False.

2. The metropolitan transportation plan (MTP):

- A. Is fiscally-constrained
- B. Includes estimated costs and funding sources for specific projects
- C. Includes overall performance measures and targets

1) A. & B. 2) A. & C. 3) All of the above.

2. Key state DOT planning functions include:

- A. Preparing a LRSTP and a STIP
- B. Preparing a UPWP
- C. Preparing and carrying out a public participation plan

1) A. & B. 2) A. & C. 3) All of the above.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

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INTRODUCTION

Planning can mean different things at different levels of the funding and organizational hierarchy, such as:

- Broad-brush multi-year projections of funding needs.
- Selecting the optimum location for a new transit center.
- Estimating when older vehicles in a transit system's fleet will need to be replaced.
- Determining what routing would most efficiently and effectively serve a neighborhood, and the bus stops and timepoints at which a bus will stop along the route.
- Designing how multiple modes should connect to maximize the travel options for riders.
- Determining the optimum fare to charge for service.

State transit staff should be familiar with a broad range of planning requirements and concepts, specifically those that pertain to subrecipients. Some of FTA's planning requirements are embedded in topic areas (such as ADA and Title VI) and discussed in other modules of this curriculum. Many planning requirements have a public involvement component; these are summarized in the Public Participation module. Projects selected for funding under the S. 5310 program are subject to coordination planning requirements; the

KEY CONCEPTS

- Subrecipient Applications/Local POPs
- Relationship of Local Application/Local POP to STIP/TIP
- Specialized Transportation Coordination
- Transit Services Planning
- Transit Performance Evaluation
- City/County/Regional Planning
- Land Use Planning
- Planning Requirements for ITS Projects

projects must be included in a locally developed, coordinated public transit-human services transportation plan. States and metropolitan areas have statewide and regional planning requirements that are addressed in the State and Metropolitan Planning module. Intelligent Transportation Systems (ITS) projects are also subject to special planning requirements that are described in this module.

IMPORTANCE FOR STATE DOT STAFF

States are responsible for ensuring that projects selected for S. 5310 funding are included in a locally developed, coordinated public transit-human services



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transportation plan. State transit staff should be familiar with basic transit service planning and evaluation concepts, to enable them to provide guidance to their subrecipients in planning local services, as well as to evaluate subrecipient services and systems using any state-established performance standards. State transit staff should also be aware of local planning activities, such as county and land use plans, and encourage their subrecipients to be engaged in these activities.

States are also responsible for ensuring that FTA-funded ITS projects conform to the National ITS Architecture, as well as to U.S. DOT-adopted ITS Standards, and that they are part of a locally approved Regional ITS Architecture.

DEFINITIONS

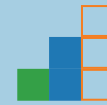
Metropolitan Planning Organization (MPO): a federally designated organization charged with carrying out the transportation planning process for an urbanized area with a population of 50,000 or more.

Program of Projects (POP): A list of projects to be funded in a grant application submitted to FTA by a state or designated recipient. The POP lists the subrecipients and indicates what type of organization they are, a brief description of each project, total project cost, and federal share for each project.

Statewide Transportation Improvement Program (STIP): a statewide prioritized program of federally-funded transportation projects covering a period of four years that is consistent with the Long-Range Statewide Transportation Plan, Metropolitan Transportation Plan, and Transportation Improvement Programs (TIPs), and required for projects to be eligible for funding.

Transportation Improvement Program (TIP): A prioritized listing/program of transportation projects covering a period of at least four years that is developed and formally adopted by an MPO as part of the metropolitan transportation planning process, consistent with the Metropolitan Transportation Plan, and required for projects to be eligible for funding

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DETAILS ON FTA REQUIREMENTS

Subrecipient Applications/Local POPs

As noted in the State and Metropolitan Planning module, the state develops its annual POP based on the subrecipient grant applications (as well as the locally developed public transit-human services transportation plans). As part of the grant application, states generally require subrecipients to apply for funding for specific projects—essentially to develop a local POP, although in your state it may be referred to by another name. Refer to your state’s local grant application packages and State Management Plan(s) for more information.

Section 5307 recipients (including direct small urban recipients) are required to develop their own POP. The development of the POP must meet FTA public participation requirements described in the FTA Grant Administration module.

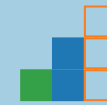
Relationship of Local Application/Local POP to STIP/TIP

As is the case with the state’s POP, to be eligible for FTA funding, local POPs/project applications must be included in the STIP, and, if located with a metropolitan area, the MPO’s TIP.

Inclusion in the STIP

As noted in the State and Metropolitan Planning module, at least every four years, each state submits a STIP for federal transportation funds. Local subrecipients can assist the state in planning for adequate funding for local transit by realistically projecting capital replacement needs on a five-year planning horizon. For this reason, your state may have capital planning requirements for your subrecipients that extend beyond the current year’s application. Refer to your state’s local grant application packages and State Management Plan(s) for more information.

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Inclusion in the TIP

Where local projects exist or are being proposed within an MPO's current planning/study area boundaries (which may include areas that are currently nonurbanized, but are expected to become urbanized within the next 20 years), the local projects must be included in the MPO's TIP. Local transit systems should be involved in the annual development of the TIP and need to plan for several years in advance, as the TIP has a six-year planning horizon, and amending the TIP involves a formal process. Each state takes care of submitting an annual POP incorporating the projects of its subrecipient for all of the applicable TIPs.

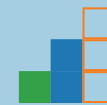
Specialized Transportation Coordination

Under SAFETEA-LU, funding through S. 5310, 5316, and 5317 required that projects be derived from a locally developed, coordinated public transit-human services transportation plan. This coordinated planning requirement was designed to be a participatory process including public, private, and human service transportation providers. Under MAP-21, this requirement continues to apply to S. 5310. States must ensure that their subrecipients are involved in the coordinated planning process. Importantly, the coordinated public transit-human services plan must reflect metropolitan and statewide plans, and vice versa.

FTA encourages S. 5307 recipients to ensure that projects meet the employment-related transportation needs of welfare recipients and low income individuals, either by deriving such projects from a locally coordinated public transit-human services planning process that involves low-income communities and their stakeholders, or by an alternative process that engages low income community stakeholders in the identification and development of the project.

In MAP-21, as in previous authorizing legislation, S. 5311 calls for "maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources." Each state must certify compliance with this requirement. FTA has provided guidance and examples of best practices for coordination through the United We Ride program, but each state determines its own evaluation criteria for local subrecipients and what constitutes "maximum feasible coordination." At the time this curriculum was developed, FTA had not yet released its MAP-21-updated, proposed S. 5311 circular. The 2007 circular indicated that FTA expects public transit systems funded under both the S. 5307 and S. 5311 formula programs to participate in the local planning process for coordinated public transit-human service transportation in those areas applying for funds under S. 5310, 5316, or 5317.

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Transit Services Planning

Transit service planning by individual transit providers often occurs as a result of state DOT requirements. With input from a board of directors and/or a transportation advisory committee, local systems or regional entities develop specific short-term transit plans, sometimes referred to as a transportation development plan (TDP). A TDP is typically prepared with a 4- to 6-year planning horizon. The process may include a review of system goals and objectives, documentation of existing services and performance, assessment of unmet needs and other issues, recommendations for service alternatives and improvements, an implementation timeline, and a financial and capital plan.

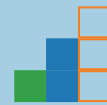
FTA requirements that relate to transit planning are addressed in other modules including Public Participation, Title VI, and ADA. FTA has funded development of numerous technical assistance resources related to transit services planning through the Transit Cooperative Research Program (TCRP), as well as courses available through the National Transit Institute (including a 3-day “Introduction to Transit Service Planning” course).

Local transit services planning is important from the perspective of the state because it provides a basis from which to project funding needs, not only in terms of paying for transit operations, but also paying for vehicles and facilities. When vehicles age, they need to be replaced. When new services are added, additional vehicles are needed to operate them. When services substantially change (such as switching from demand-responsive to fixed route service), the vehicle fleet is likely to change, making vehicle replacement planning more complicated. When new fixed route service is implemented, it must also comply with federal nondiscrimination requirements (ADA, Title VI). When planning major service reductions or fare increases, public notification and an opportunity for public comment is required. If FTA funding is to be used to build a new transit facility, there are planning requirements related to selecting the location and designing the layout and surrounding infrastructure to minimize negative socioeconomic and environmental impacts.

It is also helpful for state transit staff to have a basic understanding of service design and transit modes, as discussed in the Introduction to FTA Grants module. TCRP resources that can provide a deeper understanding of modes typically funded by S. 5311 are listed at the end of this module.

Many states also require that S. 5311 funding be consistent with the locally developed, coordinated public transit-human services

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transportation plan.

Transit Performance Evaluation

As noted in the State and Metropolitan Planning module, MAP-21 legislation requires that states and MPOs establish performance targets to use in tracking progress towards the attainment of critical outcomes, integrating other performance-based plans (e.g., plans developed by subrecipients) into their planning processes, based on performance measures to be established by U.S. DOT.

While not an FTA requirement at this point, many states have established standard performance measures for their subrecipients, for use in evaluating the efficiency, effectiveness, safety, and/or quality of service, at the system level as well as for specific routes or demand-response services within a system. Performance data are commonly used by state transit managers to monitor and oversee how effectively federal and state transit dollars are being spent. Performance measures are also important tools for use in service planning.

Commonly-used performance measurements for rural and small urban transit services include:

- Passenger trips per vehicle revenue hour - indicates productivity
- Operating cost per vehicle revenue hour - indicates cost efficiency
- Operating cost per vehicle revenue mile - indicates cost efficiency
- Operating cost per passenger trip - indicates cost efficiency
- Safety incidents per 100,000 vehicle-miles - indicates safety
- Farebox recovery ratio (annual fare revenues collected as a percentage of total annual operating expenses) - indicates ability of service to recover costs

All of these measures can be calculated using data collected for the Rural National Transit Database. Some states require data to be collected and reported for each route in a subrecipient's system, and some states establish ranges of what is considered good, acceptable, or potentially problematic service. These ranges can be useful for identifying which services may need fine-tuning and for justifying or prioritizing funding.



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There are a several excellent resources listed at the end of this module for learning more about calculating performance measurements and how to interpret the measures.

City/County/Regional Planning

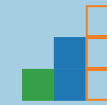
Planning at the city and county level involves local elected officials and local government staff. These actors conduct land use and transportation planning activities parallel to state and metropolitan planning processes, often to fulfill state requirements. Though the plans are primarily jurisdiction-specific, they serve as important reference points for broader efforts. For example, MPOs must develop their Metropolitan Transportation Plans and TIPs with due consideration for other related planning activities within their metropolitan areas. The FTA also encourages MPOs to consult with and coordinate the planning process with area officials responsible for other types of planning activities (land use, economic development, environmental protection, airport operations, and freight movements). Likewise, states must develop their Long-Range Statewide Transportation Plans and STIPS in consultation with nonmetropolitan local officials.

States may also establish a regional planning structure to fulfill planning functions in nonmetropolitan areas, for example through regional planning organizations or planning district commissions. MAP-21 specifically addresses regional planning in S. 5304; states may now establish and designate regional transportation planning organizations to support and enhance the statewide planning process. Regional transportation planning organization duties include developing regional plans and programs, providing technical assistance to local officials, ensuring regional and local input from nonmetropolitan areas, and providing a forum for public participation.

Land Use Planning

Transportation and land use are closely linked: development influences regional travel patterns, while the transportation system influences new development and land use. The metropolitan and statewide transportation planning process should account for this reciprocal relationship, considering current and projected population growth, future residential and commercial development, employment trends, and economic activity.

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Section 5303, 20005(b) of MAP-21 highlights the land use-transportation link with a Transit-Oriented Development Planning (TOD) Pilot program. TOD is compact, mixed-use, pedestrian friendly development near transit facilities. The Pilot program provides funding for comprehensive planning associated with new fixed guideway and core capacity improvement projects.

Planning Requirements for ITS Projects

Intelligent Transportation Systems (ITS) projects are subject to special planning requirements. ITS refers to “the integrated application of advanced computer, electronics, and communications technologies to increase the safety and efficiency of surface transportation.” Transit communication technology interface is an example of an ITS project.

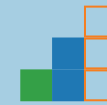
ITS projects funded by FTA must conform to the National ITS Architecture, as well as to U.S. DOT-adopted ITS Standards. ITS projects and programs are also required to be a part of a locally approved Regional ITS Architecture. The ITS Architecture Policy provides flexibility to local areas in determining what agencies or organizations take the lead in developing the Regional ITS Architecture. The policy requires that the Regional ITS Architecture must be part of the local planning process and be consistent with and be reflected in the STIP and the TIP of the region’s MPO.

To date, U.S. DOT has not adopted any ITS standards. Updated information on the U.S. DOT ITS Standards Program can be found at <http://www.standards.its.dot.gov/>.

FTA encourages the appropriate use of standards that have been developed via industry consensus by a standards development organization (SDO). The SDOs include the American Public Transportation Association (APTA); all of U.S. DOT’s SDOs are listed online here: <http://www.standards.its.dot.gov/About/ProgramPartners>.

Among the standards developed by APTA include Transit Communications Interface Profiles (TCIP), Control and Communications Security (development is currently under way), and Transit Operational Software (development is currently under way).

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What is Regional ITS Architecture?

As noted above, FTA-funded ITS projects and programs are also required to be a part of a locally approved Regional ITS Architecture. The Regional ITS Architecture is a tool that is used in transportation planning, programming, and project implementation for ITS. It is a framework for institutional agreement and technical integration for ITS projects and is the place to start when defining the basic scope of a project.

Subrecipients of FTA funds are not likely to be the lead agency for the development of the Regional ITS Architecture. The lead agency may be the MPO or the state. However, the subrecipient needs to be an active participant in the Regional ITS Architecture development and maintenance if the subrecipient is implementing ITS projects.

TIPS ON RELATIONSHIPS TO OTHER MODULES

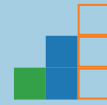
The State and Metropolitan Planning module addresses development of the TIP and STIP. FTA requirements that relate to transit service planning are addressed in the Public Participation, Title VI, and ADA modules.

LINKS/INFO

University of Wisconsin CTED's Fundamentals of Public Transit includes basic concepts of transit planning and operations and basic concepts of performance measurement and the importance of service benchmarks. <http://www4.uwm.edu/sce/course.cfm?id=302>

Transit service planning training and resources:

NTI's Introduction to Transit Service Planning course. <http://www.ntionline.com/courses/courseinfo.php?id=223>



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TCRP Resources (can be ordered or downloaded through www.tcrponline.org):

- *TCRP Report 70: Guidebook for Change and Innovation at Rural and Small Urban Transit Systems*
- *TCRP Report 101: Toolkit for Rural Community Coordinated Transportation Services*
- *TCRP Report 116: Guidebook for Evaluating, Selecting, and Implementing Suburban Transit Services*
- *TCRP Report 140: A Guide for Planning and Operating Flexible Public Transportation Services*
- *TCRP Report 147: Toolkit for Estimating Demand for Rural Intercity Bus Services*
- *TCRP Report 161: Methods for Forecasting Demand and Quantifying Need for Rural Passenger Transportation: Final Workbook*

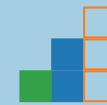
Coordination resources:

- NTI's Managing Community Mobility course. <http://www.ntionline.com/courses/courseinfo.php?id=44>
- SURTC, NDSU's Transit Coordination: Finding Coordination Partners and Breaking Down Barriers "Training on Demand" workshop. <http://www.surtc.org/training/topics.php?id=5>

TCRP/NCHRP Resources:

- *TCRP Report 101: Toolkit for Rural Community Coordinated Transportation Services*
- *TCRP Report 105: Strategies to Increase Coordination of Transportation Services for the Transportation Disadvantaged*
- *NCHRP Research Results Digest 331: Preparing Coordinated Transportation Plans: A Guidebook for State Departments of Transportation*

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Resources on Transit Performance Measurement

- SURTC, NDSU's Transit Dollars and Sense: Sound Fiscal Management Using Performance Measures "Training on Demand" workshop. <http://www.surtc.org/training/topics.php?id=25>

TCRP Resources - The following resources can be ordered or downloaded through www.tcrponline.org:

- *TCRP Report 136: Guidebook for Rural Demand-Response Transportation: Measuring, Assessing, and Improving Performance*
- *TCRP Report 165: Transit Capacity and Quality of Service Manual, 3rd Edition*
- *TCRP Report 88: A Guidebook for Developing a Transit Performance-Measurement System*
- *TCRP Research Results Digest 56: A Summary of TCRP Report 88: A Guidebook for Developing a Transit Performance-Measurement System*
- *TCRP Report 6: Users' Manual for Assessing Service-Delivery Systems for Rural Passenger Transportation*

ITS Project Planning Resources:

- NTI's Implementing Rural Transit Technology course. <http://www.ntionline.com/courses/courseinfo.php?id=63>
- *TCRP Report 76: Guidebook for Selecting Appropriate Technology Systems for Small Urban and Rural Public Transportation Operators.* www.tcrponline.org

Module 2.13: Local Planning

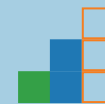


QUIZ

- 1. Coordinated planning requirements applied to S. 5310, 5316, and 5317 under SAFETEA-LU, and continue to apply to S. 5310 under MAP-21.**
 - 1) True. 2) False.
- 2. Farebox recovery ratio indicates the ability of a service to recover costs and is expressed as:**
 - A. Passenger trips per vehicle revenue hour
 - B. Operating cost per passenger trip
 - C. Fare revenue as a percentage of operating expenses
 - 1) A. 2) B. 3) C.
- 3. ITS projects funded by FTA must conform to the National ITS Architecture but have the option of being part of a locally approved Regional ITS Architecture,**
 - 1) True. 2) False.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.14: Public Participation



INTRODUCTION

Each applicant for a S. 5307 grant must publish and afford an opportunity for a public hearing on their Program of Projects (POP).

To be eligible for funding, S. 5310 and 5311 projects must be included in the Statewide Transportation Improvement Program (STIP), as well as certain metropolitan area plans which involve public input. Section 5307 projects must also be included in applicable metropolitan area plans which can help meet the POP public notice requirements.

Projects funded under S. 5310 must also be derived from a locally-developed coordinated public transit-human service transportation plan. States certify that these coordinated public transit-human services transportation plans were developed through a process that included representatives of public, private, and non-profit transportation and human services providers, and participation by members of the public.

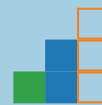
Section 5307 grantees are expected to have a written locally developed process for soliciting and considering public comment before raising a fare or carrying out a major transportation service reduction (this is in addition to the need for a major service change definition required under Title VI).

KEY CONCEPTS

- Program of Projects Public Participation Requirements
- Public Participation in the Coordinated Public Transit-Human Services Transportation Planning Process
- Public Comment on Fare and Service Changes
- Title VI Public Participation Requirements
- Public Review and Comment for Capital Projects (Environmental Planning)

The content and considerations of Title VI, the Executive Order on Limited English Proficiency (LEP), and the DOT LEP Guidance must be integrated into each recipient's established public participation plan or process.

FTA grant applicants are also required to provide an adequate opportunity for public review and comment on a capital project, and, after providing notice, to hold a public hearing on the project if the project affects significant economic, social, or environmental interests.



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Applicable regulations and guidance:

- 49 USC Chapter 53, Federal Transit Laws
- FTA proposed Circular 9030.1D, “Urbanized Area Formula Program: Program Guidance and Application Instructions”
- FTA proposed Circular 9040.1G, “Formula Grants for Rural Areas: Program Guidance and Application Instructions”
- FTA proposed Circular 9070.1G, “Enhanced Mobility of Seniors and Individuals with Disabilities Program Guidance and Application Instructions”
- Executive Order 13166
- DOT LEP Guidance
- FTA C 4702.1B, Ch. III, Section 8

IMPORTANCE FOR STATE DOT STAFF

State DOTs are responsible for ensuring that the state and its subrecipients involve the public in a meaningful way as decisions are made on transit programs, services, and fares. States (and their MPOs) have responsibilities regarding public participation while carrying out statewide and metropolitan planning processes (as required under 23 CFR 450.210 and 450.316). States must document and use a public involvement plan that details strategies for engaging the public and responding to input. The requirements for the state’s public involvement plan are described in the State and Regional Planning module.

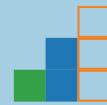
DETAILS ON FTA REQUIREMENTS

Program of Projects (POP) Public Participation Requirements

Section 5307 and Other Applications for Projects in Urbanized Areas

Both federal planning regulations and S. 5307 require public participation for the POP in a S. 5307 application. The metropolitan

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transportation planning process must include a proactive participation plan that provides complete information, timely public notice, reasonable public access to key decisions, and early and continuing involvement of the public in developing plans and Transportation Improvement Programs (TIPs). FTA-funded projects within a metropolitan area must be programmed in the TIP to be eligible for funding.

Section 5307 grantees have specific requirements for public participation related to the POP. (POP public participation requirements do not apply to funds flexed into a S. 5307 grant.) FTA allows a grantee to rely on the locally adopted public participation requirements for the TIP in lieu of the process required in the development of the POP if the grantee has coordinated with the Metropolitan Planning Organization (MPO) and ensured that the public is aware that the TIP development process is being used to satisfy the POP public participation requirements. To comply with the latter requirement, the MPO's public participation plan should state that the MPO's public participation process satisfies the grantee's public participation process for the POP. The public notice for the TIP must have an explicit statement that notice of public involvement activities and time established for public review of/ comments on the TIP will satisfy the POP requirements.

If the grantee relies on its own process to satisfy POP public participation requirements, it must:

- a. Develop a proposed POP in consultation with interested parties, including private transportation providers. The grantee may rely on the MPO to assist in this process. A transportation advisory committee of the MPO may be informed or used as a reviewer of the POP. Private providers should be involved throughout this process.
- b. Ensure that the proposed POP provides for the coordination of S. 5307 public transportation projects with transportation projects assisted with other federal sources. Coordination may occur at many levels, from simple information sharing to total consolidation of services. Participation in the public transit-human services planning process satisfies this requirement.
- c. Make available to the public information concerning the amount of funds available under the S. 5307 program and the POP that the recipient proposes to undertake with such funds.
- d. Publish the proposed POP in sufficient detail and in such a manner as to afford affected citizens, private transportation

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providers, and, as appropriate, local elected officials, reasonable and adequate opportunity to examine the proposed program and to submit comments on it and on the performance of the grantee. The public notice is published in the general circulation newspaper in the service area of the grantee and should indicate where citizens can examine the proposed program and budget in detail and submit comments on the proposed program and the performance of the grantee. If the service area includes a significant number of persons with limited English proficiency, the grantee should distribute the notice to these populations (see the Title VI module).

- e. Provide an opportunity for a public hearing to obtain the views of citizens on the proposed POP. Most grantees include in the public notice an announcement that the proposed POP is available for review and that, if requested, a public hearing will be held. Some local laws or grantee policies make the public hearing mandatory.
- f. Consider comments and views received, including those of private transportation providers, in preparing the final POP.
- g. Make the final POP available to the public. If the proposed POP is not amended, including a statement that the proposed program will be the final program, unless amended, satisfies the requirements regarding the final POP.

Section 5310

To be eligible for funding, S. 5310 projects in urbanized areas must be included in the Metropolitan Transportation Plan (MTP) prepared and approved by the MPO, the TIP approved jointly by the MPO and the governor, and the Statewide Transportation Improvement Program (STIP) developed by a state and jointly approved by FTA and the Federal Highway Administration (FHWA). Projects outside urbanized areas must be included in, or be consistent with the Statewide Long-Range Transportation Plan, as developed by the state, and must be included in the STIP. With limited exceptions, all federally-funded highway or transit projects must be included in the applicable plan and program documents according to state and local procedures.

Section 5311

A state requesting S. 5311 assistance must comply with the planning requirements of 49 USC 5303 through 5305. Projects



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proposed for S. 5311 funding must be a product of the statewide and non-metropolitan transportation planning process and/or the metropolitan planning process specified in 23 CFR part 450 and 49 CFR part 613. States must include S. 5311 funds in the STIP.

FTA does not require public participation for individual S. 5311 subrecipient operating grant applications, but some states require similar public notice as is required for S. 5307 POPs.

Public Participation in the Coordinated Public Transit-Human Services Transportation Planning Process

States certify that locally developed, coordinated public transit-human services transportation plans (from which S. 5310 projects must be derived—see the Planning module for more information) are developed through a process that included representatives of public, private, and non-profit transportation and human services providers, and participation by members of the public. Note that the required participants include not only transportation providers but also providers of human services, and members of the public (e.g., individuals with disabilities, older adults, and individuals with low incomes) who can provide insights into local transportation needs. It is important that stakeholders be included in the development and implementation of the local coordinated public transit-human services transportation plan. A planning process in which stakeholders provide their opinions but have no assurance that those opinions will be considered in the outcome does not meet the requirement of “participation.” Explicit consideration and response should be provided to public input received during the development of the coordinated plan. Stakeholders should have reasonable opportunities to be actively involved in the decision-making process at key decision points, including, but not limited to, development of the proposed coordinated plan document. The S. 5310 circular suggests the following strategies to facilitate appropriate inclusion:

- a. Adequate Outreach to Allow for Participation, such as notices or flyers in centers of community activity, newspaper or radio announcements, e-mail lists, website postings, and invitation letters to other government agencies, transportation providers, human services providers, and advocacy groups. Any public meetings regarding the plan should be held in a location and time where accessible transportation services can be made available and adequately advertised to the general public using techniques such as those listed above. Additionally, interpreters for individuals with hearing impairments and English as a second language and accessible formats (e.g., large print, Braille, electronic versions) should be provided as required by law.

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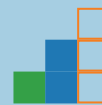
- b. Participants in the Metropolitan and Statewide Planning Processes. Metropolitan and statewide planning under 49 USC 5303 and 5304 require consultation with an expansive list of stakeholders. There is significant overlap between the lists of stakeholders identified under those provisions (e.g. private transportation providers and representatives of individuals with disabilities) and the organizations that should be involved in preparation of the coordinated plan.
- c. Good Faith Efforts to Encourage Participation. Communities will have different types of participants depending on population and size of community, geographic location, and services provided at the local level. FTA expects that planning participants will have an active role in the development, adoption, and implementation of the plan. Participation may remain low even though a good faith effort is made by the lead agency to involve passengers, representatives of public, private, and non-profit transportation and human services providers, and others. The lead agency convening the coordinated planning process should document the efforts it utilized, such as those suggested above, to solicit involvement. To increase participation at the local level, state transit offices are encouraged to work with partner agencies at the state level to provide information to their constituencies about the importance of human service transportation programs and the opportunities that building a coordinated system offers.

Public Comment on Fare and Service Changes (S. 5307 only)

Annually, S. 5307 grantees certify that they have a locally developed process to solicit and consider public comment prior to raising a fare or implementing a major reduction in public transportation service. Grantees are expected to have a written policy that describes the public comment process. The grantee is responsible for defining a major service reduction. This can be defined as a standard, such as elimination of a route or reduction of “X” percent of service hours or miles.

The policy should provide an opportunity for a public hearing or meeting for any fare increase or major service reduction. It should describe how such meetings will be conducted and how the results will be considered. A public meeting is not mandatory; however, an opportunity for a public meeting in order to solicit comment must be provided. Some grantees offer an opportunity for public comment for all fare and service changes. This meets the requirement.

The state must ensure that S. 5307 subrecipients have a process for obtaining public comment for fare increases and major service reductions. Either the state or its subrecipients are expected to have a written policy that describes the public comment process. The



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state must also ensure that subrecipients follow the process and consider public comment when they raise fares or implement major service reductions.

Although FTA only requires this public comment process for S. 5307 recipients, some states apply this requirement to S. 5311 subrecipients as well.

Title VI Public Participation Requirements

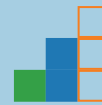
The content and considerations of Title VI, the Executive Order on LEP, and the DOT LEP Guidance must be integrated into each recipient's established public participation plan or process. An agency's public participation strategy must offer early and continuous opportunities for the public to be involved in the identification of social, economic, and environmental impacts of proposed transportation decisions.

Grantees have wide latitude to determine how, when, and how often specific public participation activities should take place, and which specific measures are most appropriate. Grantees should make these determinations based on a demographic analysis of the population(s) affected, the type of plan, program, and/or service under consideration, and the resources available. Efforts to involve minority and LEP populations in public participation activities can include both comprehensive measures, such as placing public notices at all transit stations, stops, and vehicles, as well as targeted measures to address linguistic, institutional, cultural, economic, historical, or other barriers that may prevent minority and LEP persons from effectively participating in a recipient's decision-making process.

Some effective practices to promote inclusive public involvement include:

- Scheduling meetings at times and locations that are convenient and accessible for minority and LEP communities.
- Employing different meeting sizes and formats.
- Coordinating with community- and faith-based organizations, educational institutions, and other organizations to implement public engagement strategies that reach out specifically to members of affected minority and/or LEP communities.
- Considering radio, television, or newspaper ads on stations and in publications that serve LEP populations. Outreach to LEP populations could also include audio programming available on podcasts.

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- Providing opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments.

The state is responsible for ensuring that subrecipients comply with Title VI requirements. Additional requirements are detailed in the Title VI module.

Public Review and Comment for Capital Projects (Environmental Planning)

Title 49 USC 5323(b) requires FTA grant applicants to provide an adequate opportunity for public review and comment on a capital project, and, after providing notice, to hold a public hearing on the project if the project affects significant economic, social, or environmental interests. These requirements are also satisfied through compliance with the NEPA requirements for a public scoping process, public review and comment on NEPA documents, and a public hearing on every draft environmental impact statement (EIS). FTA also requires a public hearing on environmental assessments (EAs) that have a high probability of being elevated to EISs, ensuring that the applicant has complied with the public hearing requirement to include in the environmental record for the project.

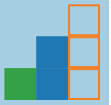
Under 49 USC 5323(b), any application for a project that will “substantially affect a community or the public transportation service of a community” shall include a certification to the effect that the applicant has:

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

Notice of such public hearings must include a concise description of the proposed project and be published in a newspaper of general circulation in the geographic area the project will serve.

Further, under 49 USC 5324(b), FTA must review the public comments and hearing transcript to ascertain that an adequate

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opportunity to present views was given to all parties having a significant economic, social, or environmental interest in the project, and that FTA must make a written finding to this effect.

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

TIPS ON RELATIONSHIPS TO OTHER MODULES

The following other modules also contain public participation requirements: Title IV, State and Regional Planning, and Local Planning.

LINKS/INFO

- FTA circulars. http://www.fta.dot.gov/legislation_law/12349.html
- DOT Limited English Proficiency (LEP) Guidance. http://www.fta.dot.gov/documents/LEP_Handbook.doc
- Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs (May 2011). <http://www.lep.gov/>
- Executive Order 13166: “Improving Access to Services for Persons with Limited English Proficiency”. http://www.fta.dot.gov/documents/LEP_Executive_Order.doc

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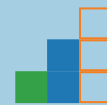
QUIZ

- 1. Section 5307 grantees that rely on their own processes to satisfy POP public participation requirements must hold a public hearing to obtain the views of citizens on the proposed POP.**
1) True. 2) False.

- 2. Which of the following are examples of outreach strategies for participation in the coordinated public transit-human services transportation planning process?**
A. Posting notices or flyers in community centers
B. Holding public meetings on the coordinated plan at times when transportation services are available
C. Providing interpreters/accessible formats as required by law
1) A. 2) B. 3) C. 4) All of the above.

- 3. FTA requires that S. 5307 and S. 5311 subrecipients have a process for obtaining public comment on fare increases and major service reductions.**
1) True. 2) False.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.



Module 2.15: Asset Management

INTRODUCTION

States and their subrecipients must maintain control over real property, facilities, and equipment and ensure that they are used in transit service. States and subrecipients must keep federally funded equipment and facilities in good operating condition. MAP-21 established new requirements for transit asset management as well as new reporting requirements. FTA grantees and their subrecipients will be required to develop transit asset management plans, establish targets for related performance measures, and submit reports. The MAP-21 requirements related to planning and reporting have not yet been determined.

This module addresses the requirements that are contained in the Asset Management section of the FY2012 State Management Review Workbook, supplemented with information available on MAP-21 asset management requirements as of June 25, 2013. Together, these sets of requirements are intended to ensure that FTA-funded assets are:

- used appropriately,
- under the control of the grantee,
- adequately maintained,
- replaced at the appropriate time, and
- adequately documented.

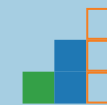
Assets funded under S. 5307 and the former S. 5309 program have additional requirements, including vehicle inventory, spare ratio, and contingency fleet/planning. The statutes and regulations governing these requirements include:

- Federal Transit Laws, Title 49, USC, Chapter 53
- 49 USC Section 5326 / MAP-21 Section 20019

Key guidance:

- FTA C 5010.1D - Grant Management Requirements (Rev. 1, August 27, 2012)
- FTA Advanced Notice of Proposed Rulemaking, “The National Public Transportation Safety Plan, the Public Transportation

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Agency Safety Plan, and the Public Transportation Safety Certification Training Program; Transit Asset Management” (10/3/13)

- FTA Draft Circular 9030.1D

IMPORTANCE FOR STATE DOT STAFF

States are responsible for monitoring the use of FTA-funded real property, facilities, and equipment. Assets that are not maintained in a state of good repair present potential risks, including safety, service unavailability, and high maintenance and repair costs. Systematically planning for asset replacement enables subrecipients and the state to proactively plan for funding capital replacements so as to be better able to maintain a systemwide state of good repair.

DEFINITIONS

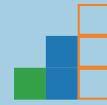
Asset: physical or capital assets including equipment, rolling stock, infrastructure, and facilities for use in public transportation; owned or leased by a recipient or subrecipient of FTA financial assistance.

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

Facilities: all or any portion of a building or structure including roads, walks, and parking lots.

Federal Interest: the federally-funded portion of an asset’s value. For an asset that was purchased using 80% FTA funding and 20% local match funding, the federal interest would be 80% of the current fair market value of the asset (factoring in depreciation).

Incidental use of property/equipment: limited non-transit use of transit real property or equipment. (FTA C 5010.1D defines it as “The authorized use of real property and equipment acquired with FTA funds for purposes of transit service but which also has



Module 2.15: Asset Management

limited non-transit use due to transit operating circumstances. Such use must be compatible with the approved purposes of the project and not interfere with intended public transportation uses of project assets.”)

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

Project Purposes: the use of an FTA-funded asset as described in the original grant application or as subsequently approved by FTA.

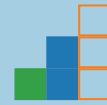
Real Property: land, including affixed land improvements, structures, and appurtenances. It does not include movable machinery and equipment.

Rolling Stock: transit vehicles. Defined in Buy America regulations (49 CFR Part 661.3 - see module on Procurement for more on Buy America) as transit vehicles such as buses, vans, cars, railcars, locomotives, trolley cars, and ferry boats, as well as vehicles used for support services. (Note that the inclusion of vehicles used for support services as rolling stock may be inconsistent with FTA C 5010.1D, which indicates that “light duty vehicles such as vans, sedans, and pick-up trucks employed in administrative and maintenance purposes are considered equipment” rather than rolling stock.)

Transit Asset Management Plan: defined in MAP-21 as a plan developed by a recipient of FTA funding that includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; the recipient certifies compliance with the rule issued under 49 USC Section 5326. A transit asset management plan allows for the estimation of capital investment needs over time.

Transit Asset Management System: a strategic and systematic process of operating, maintaining, and improving public transportation capital assets effectively throughout the life cycle of such assets.

Useful Life: the expected lifetime of project property, or the acceptable period of use in service. Useful life of revenue rolling stock begins on the date the vehicle is placed in revenue service and continues until it is removed from service.



Module 2.15: Asset Management

KEY CONCEPTS

State of Good Repair

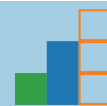
Generally speaking, the expression “state of good repair” refers to good, functional condition when describing a transit asset. Several years before MAP-21 was enacted, FTA became aware of a growing problem: the condition of the transit infrastructure in cities and communities across the nation has been deteriorating, which is a major challenge for providing safe and reliable transit services. In 2008, FTA began hosting a series of State of Good Repair roundtable discussions, to start and foster a dialogue for how to address this problem, with a goal to bring to nation’s transit systems to a state of good repair.

MAP-21 established a new State of Good Repair program dedicated to repairing and upgrading the nation’s rail transit systems along with high-intensity motor bus systems that use high occupancy vehicle lanes, including bus rapid transit (BRT). MAP-21 also requires FTA to define the term “state of good repair” to include “objective standards for measuring the condition of capital assets of recipients, including equipment, rolling stock, infrastructure, and facilities.”

Transit Asset Management

Prior to MAP-21, the FTA State Management Review workbook used the term “asset management” to refer to how a grantee manages how its assets are used and maintained, and at what point they become eligible for FTA replacement funding. With MAP-21, FTA has also begun to use “transit asset management” to describe a holistic approach to having a handle on what assets a grantee owns, what condition they are in, how well they are working, and when they should ideally be replaced.

Transit asset management planning can be described as a strategic and systematic approach to managing transit physical assets. It focuses on business and engineering processes for resource allocation and utilization, with the objective of better decision making based upon quality information and well-defined objectives. Transit asset management is a way of being proactive in managing how and when to spend capital resources (e.g., anticipating when vehicles are likely to need replacing and planning in advance for their replacement), rather than reactive in waiting until things are at a crisis stage (e.g., waiting until vehicles are frequently breaking down before taking steps to replace them).



Module 2.15: Asset Management

Transit asset management planning can be conducted at different levels of complexity/maturity. The most basic kind of a transit asset management plan is an inventory of assets with a condition assessment for each asset. If your state requires subrecipients to update their vehicle inventory on an annual basis with current odometer readings and some indication of current condition, this is a basic level of asset management. More sophisticated plans can include policies, level of service objectives or performance targets (such as number of miles between vehicle road calls) - for which FTA is identifying performance measures as required under MAP-21), risk assessment (what is the risk of having an asset become unusable? what assets are highest priority?), lifecycle cost/performance information (how can we minimize costs and risk over the long run through preventive maintenance and replacement? how can we do this within our budget constraints?).

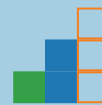
Satisfactory Continuing Control

Continuing control refers to a grantee's control over the use of an FTA-funded asset. FTA requires that grantees maintain "satisfactory continuing control" over FTA-funded vehicles, facilities, etc. even if they are being used (e.g., through a lease agreement) by another organization. States and subrecipients are responsible for maintaining control over their FTA-funded assets, and states are responsible for ensuring that this control is maintained, through various monitoring activities.

Useful Life

With the exception of land, each asset has a life expectancy (often referred to as "useful life" or "service life") in years and sometimes in usage units (such as vehicle miles). An asset that has reached the end of its useful life is essentially worn out, and must be replaced or at least overhauled/refurbished. Assets are often made up of major components (such as the engine in a vehicle, or the roof of a building) that have their own life expectancies. Replacing these components can extend the life of the overall asset.

To reach their full useful life expectancy, assets and their components generally require two kinds of maintenance: preventive maintenance and corrective maintenance. Preventive maintenance is conducted at regular intervals and includes such basic items as changing a vehicle's engine oil every 3,000-5,000 miles, for example, as well as more in-depth services that may be needed only every 30,000 miles. Preventive maintenance is conducted to prevent a vehicle from failing to function. When a vehicle fails (or breaks down), corrective maintenance is needed to repair the vehicle. A good preventive maintenance program will minimize the corrective



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maintenance needed as well as minimize the risk that a vehicle will become inoperable (resulting in a loss of service) and unsafe (potentially resulting in an accident).

As an asset ages, even with a good preventive maintenance program in place, it is likely to need an increasing amount of corrective maintenance, simply because older components wear out. Therefore older assets likely to cost more money to keep in operating condition (i.e. a state of good repair) than younger assets. At some point, it becomes more cost-effective to replace the asset rather than continuing to repair it. There is no hard and fast rule to determine this point, but an asset that has reached its useful life expectancy has likely entered the state of needing frequent repairs.

An asset that has not yet reached its useful life has what is referred to as residual life, or the number of years or service units remaining until the end of its useful life. Residual life is important to monitor so that a transit system or state which intends to request FTA funding for replacement can time its grant application so that the funds would become available in time to replace a vehicle at the end of its useful life. This is because there is significant time involved in 1) waiting for a grant to be awarded (see module on Grants and Financial Management), 2) going through the procurement process (see module on Procurement), and 3) building the asset once a vendor has been selected. For example, if the transit system is buying a transit bus, steps 2 and 3 can take up to 18 months. For this reason, the transit system should be thinking about submitting its application for a grant to buy a replacement bus when one of its current buses has only 2 years of residual life left.

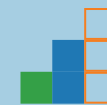
SUMMARY OF FTA REQUIREMENTS

The FTA requirements in this module are organized into the following sections: real property, equipment, maintenance, and transit asset management planning and reporting requirements established by MAP-21.

Real Property

The state must ensure that its FTA funded real property and its subrecipients' FTA funded real property are used for project purposes, until the property is sold. In general, this means that the real property must be used for public transportation purposes.

Module 2.15: Asset Management



Incidental Use

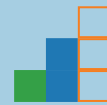
FTA does, however allow limited incidental use of real property (and equipment) for non-transit uses that do not interfere with the intended public transportation uses or the grantee's continuing control over the use of the property, or compromise safety. Examples of incidental use include the leasing of space in a station for a newspaper stand or coffee shop and the lease of air rights over transit facilities. While FTA is particularly interested in encouraging incidental use as a means of supplementing transit revenues, non-profit uses are also permitted under certain circumstances. FTA approval is required for incidental use of real property.

Income received from the authorized incidental or joint development uses may be retained by the grantees (without returning the federal share) if the income is used for eligible transit capital and operating expenses. This income cannot be used as part of the local share of the grant from which it was derived. However, it may be used as part of the local share of another FTA grant.

Changes in Use

Grantees are required to notify FTA when property is removed from the service originally intended at grant approval and if property is put to additional or substitute uses. If FTA funded real property is no longer needed for any transit purpose, grantees are required to prepare or update an excess property inventory and utilization plan. The grantee's plan should identify and explain the reason for excess property. FTA C 5010.1D describes that the inventory list should include such things as: property location, summary of any conditions on the title, original acquisition cost, the federal participation ratio, FTA grant number, appraised value and date, description of improvements, current use of the property, and anticipated or proposed disposition or action.

The Common Rule (49 CFR Part 18), Master Agreement, and FTA C 5010.1D have requirements for removing assets from transit service. Grantees must request FTA instructions on proper procedure for disposition of real property. Depending on the approved method of disposition, the grantee may be required to reimburse FTA.



Module 2.15: Asset Management

Equipment

Management and Control

Certain management standards apply to FTA-funded equipment, supplies, and rolling stock purchased with federal funds. The state can rely on its own laws and procedures for managing and disposing FTA-funded equipment, and it may use the same procedures for public bodies and private nonprofit organizations. Your state's procedures should be summarized in the State Management Plans for S. 5310 and S. 5311 (as well as the former S. 5316 and S. 5317 until the equipment funded under these programs no longer has a federal interest). Examples of procedures used by states to maintain control over FTA-funded equipment operated by subrecipients include equipment inventories, annual vehicle use certifications, periodic reporting of vehicle use, retention of or liens on titles, disposition requirements, lease restrictions, productivity standards, site visits, and minimum insurance requirements.

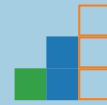
The state may adopt FTA's procedures for equipment management that must be followed for equipment funded under S. 5307 or the former S. 5309. FTA rolling stock and equipment management procedures require that:

- Specific equipment records be maintained by the grantee.
- A physical inventory of equipment must be taken and the results reconciled with equipment records at least once every two years. Any differences must be investigated to determine the cause of the difference.
- A control system be developed to ensure adequate safeguards to prevent loss, damage, or theft of project property. Any loss, damage, or theft must be investigated and documented by the grantee.

S. 5307/5309 grantees must keep records of FTA-funded equipment, including leased assets and assets used by subrecipients, that include the following required information:

- | | | |
|--------------------|----------------------|----------------------|
| • description | • federal percentage | • disposition action |
| • I.D. number | • grant number | • vested title |
| • acquisition date | • location | • useful life |
| • cost | • use and condition | |

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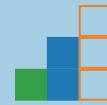


Useful Life Standards

States are responsible for establishing and implementing useful life standards for vehicles purchased with S. 5310, 5311, 5316, or 5317 assistance. States must follow useful life standards for vehicles purchased with assistance under the former S. 5309 program (which has been replaced by S. 5339) that meet or exceed FTA requirements. Most states have adopted FTA's useful life standards for all vehicles, regardless of funding source. Many states have adopted stricter (longer) useful life standards for vehicles. The following table presents FTA useful life standards for vehicles and ferries.

<i>Vehicle</i>	<i>FTA-Defined Useful Life</i>
35'-40' heavy duty bus and articulated transit bus	12 years or 500,000 miles
30' heavy duty transit bus	10 years or 350,000 miles
30' medium duty transit bus	7 years or 200,000 miles
25'-35' light duty transit bus (body on chassis vehicle)	5 years or 150,000 miles
Other vehicles (small buses, vans, sedans)	4 years or 100,000 miles
Rail vehicle	25 years
Fixed guideway steel-wheeled trolley	25 years
Fixed guideway electric trolleybus	15 years
Passenger ferry	25 years
Other ferries without refurbishment	30 years
Other ferries with refurbishment	60 years
<i>Note: A heavy duty transit bus is built as a bus whereas a medium duty bus is built on a truck chassis.</i>	

Useful life of rolling stock begins on the date the vehicle is placed in revenue service and continues until it is removed from revenue service. The useful life in miles refers to total miles in revenue transit service; non-revenue miles do not count towards useful life. Minimum useful life for buses, vans, and trolleys is determined by years of service or accumulation of miles, whichever comes first.



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Leasing FTA-Funded Assets

FTA-funded assets may be leased to other entities, such as local public bodies or agencies, private nonprofit organizations, or private for-profit operators, if the lessee operates the assets on behalf of the state or subrecipient and provides transportation as described in the grant application for the asset.

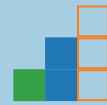
FTA requires states to exercise control over FTA-funded assets leased by subrecipients to ensure that they are used for project purposes. How this control is exercised is determined by each state. Many states require subrecipients who are leasing FTA-funded assets to submit a copy of the lease to the state for review. Other states provide a standard lease that subrecipients are required to use.

FTA has established specific requirements for leases of S. 5310 vehicles. The state must agree in writing to the lease between the S. 5310 subrecipient and the lessee. The vehicle may be used for incidental purposes only after grant needs have been met. The state and subrecipients are responsible for ensuring that adequate control is exercised over use of the leased equipment. Either the state or the subrecipient must retain title to the vehicle.

Grantees may lease FTA funded assets to private operators. Prior FTA concurrence is required for equipment leased on or after November 1, 2008. If the lease was described in the grant application, FTA approval of the grant constitutes approval of the lease. Prior FTA approval is not required when equipment is leased to a transit management contractor that operates the service on behalf of the grantee. When FTA funded property is leased to a private operator, including management contractors, the lease should contain the following provisions:

- A requirement for the lessee to operate the project property to serve the best interest and welfare of the grantee and the public. The terms and conditions for operation of service imposed by the grantee shall be evidenced in a service agreement.
- A requirement for the lessee to maintain project property at a high level of cleanliness, safety, and mechanical soundness under maintenance procedures outlined by the project sponsor. The project sponsor and/or FTA shall have the right to conduct periodic maintenance inspections for the purpose of confirming the existence, condition, and the proper maintenance of the project equipment.

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- A cross reference to a service agreement. A default under the lease is a default under the service agreement and vice versa.
- A requirement that the leased property may not be subleased without grantee written approval and may not be otherwise encumbered without FTA written approval.

Vehicle Fleet Size Considerations

Assets funded under S. 5307 and the former S. 5309 program have additional requirements, including vehicle inventory, spare ratio, and contingency planning.

- Spare Ratio - 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. FTA circular 5010.1D advises that the number of spare buses in the active fleet for grantees operating 50 or more fixed-route revenue vehicles should not exceed 20 percent of the number of vehicles operated in maximum fixed-route service. The circular also notes that the basis for determining a reasonable spare bus ratio takes local circumstances into account.
- Contingency Fleet - FTA recognizes two types of vehicles—active and contingency. Revenue vehicles which have met their minimum normal service life requirements may be stockpiled in a contingency fleet, in preparation for emergencies. These vehicles are not included in the calculation of spare ratio, and must be properly stored, maintained, and documented in a contingency plan. Any rolling stock not supported by a contingency plan will be considered part of the active fleet.

Maintenance

The state is responsible for ensuring that subrecipients maintain FTA funded vehicles, facilities, and facility-related equipment in good operating order.

Minimum Requirements for Maintaining Vehicles

The state must develop maintenance requirements for FTA funded vehicles that are adequate to protect the federal interest and



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to ensure that the equipment is maintained in good operating order. Generally, subrecipient agreements require equipment to be maintained in good operating order.

Your state's requirements for vehicle maintenance should be documented in the State Management Plans, the subrecipient grant application packages, and/or other guidance provided to subrecipients. Many states require subrecipients to follow manufacturers' suggested maintenance activities and schedules. Some states require applicants to document their maintenance procedures in the application and may evaluate the ability to maintain vehicles as part of the project selection process. Some states have developed maintenance procedures that they require subrecipients to follow or require the development of maintenance plans.

Maintenance Plans for Facilities

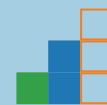
States or their subrecipients are required to develop written maintenance plans for FTA funded facilities and facility-related equipment. The plan should identify the goals and objectives of a maintenance program and establish the means by which such goals and objectives will be attained.

Repairs under Warranty

If a subrecipient has equipment under warranty, FTA requires that there be a system for identifying warranty claims, recording claims, and enforcing claims against the manufacturers. An aggressive warranty recovery program ensures that the cost of defects is borne properly by the equipment manufacturer and not the grantee and FTA. There should be clear procedures to identify warranty repairs, record the warranty claim, submit the claim to the manufacturer, and follow up on unpaid claims.

Monitoring Subrecipients

FTA does not prescribe a monitoring system or specific monitoring activities to ensure that subrecipients maintain FTA funded vehicles, facilities, and facility-related equipment in good operating order. Each state is responsible for developing and implementing a monitoring system that provides adequate assurance that FTA funded equipment and facilities are properly maintained. Most states use a combination of mechanisms: periodic reporting, maintenance record review, visual inspections, and maintenance audits.



Module 2.15: Asset Management

Transit Asset Management Planning and Reporting Requirements Established by MAP-21

MAP-21 established the following general transit asset management requirements for FTA grantees. The details of these requirements have not yet been determined. On October 3, 2013 (shortly before this module of the curriculum was drafted), FTA issued an Advanced Notice of Proposed Rulemaking (ANPRM), “The National Public Transportation Safety Plan, the Public Transportation Agency Safety Plan, and the Public Transportation Safety Certification Training Program; Transit Asset Management.” FTA posed questions to the industry and seeks comments on the ANPRM by January 2, 2014. In the interim, states and their subrecipients can begin to prepare for these requirements.

- Transit Asset Management Plans - All FTA grantees and their subrecipients will be required to develop transit capital asset management plans that include, at a minimum:
 - capital asset inventories and condition assessments
 - investment prioritization (i.e., the priority for replacing each asset, as well as for expanding the inventory).
- Performance Targets - Each FTA recipient will be required to establish local targets for certain performance measures (to be established by USDOT/FTA) and update these targets annually. These performance measures have yet to be determined; the MAP-21 legislation mandates that U.S. DOT establish these no later than Oct. 1, 2013. Once U.S. DOT establishes these measures, recipients will have 3 months to establish their own targets.
 - As part of the performance-based planning process (49 USC Sections 5303 and 5304), MPOs and states are required to coordinate.
- Designated recipients of FTA formula funding will be required to report annually on: the progress of the recipient during the fiscal year to which the report relates toward meeting established performance targets and the performance targets established by the recipient for the subsequent fiscal year. An FTA factsheet on transit asset management indicates that the report must include the condition of the system and any changes in condition since the last report.



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SUPPLEMENTAL NOTES

- FTA has developed software to assist with transit asset management, known as Transit Economic Requirements Model Lite (“TERM Lite”). TERM Lite is a PC-based computer application (based on MS Access) designed to estimate an agency’s transit capital investment needs over an extended time horizon. The model estimates the total amount of annual capital expenditures required over a twenty-year period to maintain or improve the physical condition and performance of the agency’s transit infrastructure. TERM Lite can be downloaded at http://www.fta.dot.gov/13248_13251.html.
- The APTA Standards Program State of Good Repair (SGR) working group is developing SGR standards for assessing condition of transit assets.
- NTI presented a series of webinars on preparing a transit asset management plan as a recommended business practice. Although these webinars did not reflect the yet-to-be-determined MAP-21 requirements, and were targeted at urbanized transit systems with the means to conduct life-cycle costing analysis, they provide helpful guidance developing such a plan. The webinars were recorded and can be streamed at http://ntionline.com/courses/list.php?program_id=11.

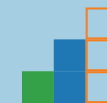
As discussed in these webinars, a fully-developed transit asset management plan answers these questions:

- What does the transit system own?
- What condition is it in and how well does it perform?
- What risks are associated with it? (If something is not replaced on time, what could happen?)
- How long will it last?
- How much will it cost to replace and what are its future financial requirements?

The NTI webinars recommended the following steps to develop the transit asset management plan:

1. develop inventory
2. assess condition
3. determine residual life
4. determine life cycle and replacement costs

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5. set quality of service targets - on-time performance, miles between road calls
6. assess risk of delaying replacement of each asset - what is the relative importance is each asset?
7. optimize maintenance expenditures (analyze preventive maintenance intervals and the relationship to repairs or “corrective” maintenance. At what interval are PM + CM costs lowest?)
8. optimize capital expenditures (life cycle cost analysis)
9. determine funding strategy (including trade-offs in what to invest in - replacement vs. expansion)
10. document asset management plan

Note: Steps 1-4 and 9-10 represent a relatively basic transit asset management plan, while steps 5-8 represent a relatively sophisticated plan. FTA has not yet indicated the level of sophistication it requires for states and their subrecipients.

TIPS ON RELATIONSHIPS TO OTHER MODULES

Asset Management is related to Grant Administration, Financial Management, Planning, Procurement, and Safety and Security.

LINKS/INFO

- FTA State of Good Repair & Asset Management Web page. <http://www.fta.dot.gov/13248.html>
- FTA Advanced Notice of Proposed Rulemaking, “The National Public Transportation Safety Plan, the Public Transportation Agency Safety Plan, and the Public Transportation Safety Certification Training Program; Transit Asset Management” (10/3/13) - <http://www.gpo.gov/fdsys/pkg/FR-2013-10-03/pdf/2013-23921.pdf>
- FTA MAP-21 Fact Sheet: Transit Asset Management (Section 5326). http://www.fta.dot.gov/documents/MAP-21_Fact_Sheet_-_Transit_Asset_Management.pdf



QUIZ

1. A 30' medium duty transit bus has been in revenue service for 5 years. It has accumulated 210,000 total miles and 190,000 revenue miles. The bus:

- A) Has reached its FTA-defined useful life
- B) Is likely to need an increasing amount of corrective maintenance in the future
- C) Still has residual life

1) A. 2) A. & B. 3) B. & C.

2. Vehicles stockpiled in a contingency fleet should be included in the spare ratio calculation.

- 1) True. 2) False.

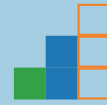
3. Income received from incidental use of real property may be used as part of local share:

- A) For the grant from which it was derived
- B) For another FTA grant
- C) If the incidental use was first approved by FTA

1) A. 2) B. 3) A. & C. 4) B. & C.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.16: Safety and Security



INTRODUCTION

Section 5329 of MAP-21 requires that all recipients of FTA funding develop an agency safety plan and certify that the plan meets FTA requirements. Within one year after FTA issues a final rule on this requirement, each state or recipient of S. 5307 or S. 5311 funds must develop, implement, and certify a public transit agency safety plan. FTA has published an Advanced Notice of Proposed Rulemaking regarding aspects of the S. 5329 safety and asset management requirements to solicit public comment prior to developing this rule.

In the interim before the FTA final rule is issued, FTA encourages transit providers to begin implementing the statutory requirements of the transit agency safety plan. States are advised to begin to assist, and/or require their subrecipients to prepare agency safety plans that include the general areas required under MAP-21. Existing voluntary FTA safety and security planning guidance is available.

Section 5307 grantees must annually certify that they are spending at least one percent of such funds for transit security projects, or that such expenditures for security systems are not necessary.

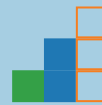
KEY CONCEPTS

- Public Transit Agency Safety Plans
- State Safety Oversight
- Public Transportation Safety Certification Training Program
- Funding for Employee Safety Training
- Currently Available FTA Guidance
- One Percent of S. 5307 Funds on Security Projects
- Safety-Related Elements in Other FTA Requirements

- 49 USC, Chapter 53, Section 5307
- 49 USC, Chapter 53, Section 5329
- FTA Advanced Notice of Proposed Rulemaking, “The National Public Transportation Safety Plan, the Public Transportation Agency Safety Plan, and the Public Transportation Safety Certification Training Program; Transit Asset Management” (10/3/13)
- FTA Draft Circular 9030.1D

IMPORTANCE FOR STATE DOT STAFF

States may have oversight responsibility of subrecipient agency safety plans once the final rule for 49 CFR 5329 is established. FTA has not yet determined



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these responsibilities. In the interim, state staff should stay abreast of FTA development of regulations and follow your state's current policies and procedures related to subrecipient safety and security requirements.

DETAILS ON FTA REQUIREMENTS

49 USC 5329 provides FTA with the authority to establish a new comprehensive framework to oversee the safety of public transportation throughout the United States. The law requires, among other things, that DOT issue a national public transportation safety plan, establish safety performance criteria for all modes of public transportation, define a "state of good repair," establish minimum safety performance standards for public transportation vehicles, and develop a safety certification training program. In addition, public transportation agencies must establish comprehensive agency safety plans for their operations.

FTA is currently developing regulations and interim guidance to implement these new requirements in consultation with public transportation industry stakeholders. On October 3, 2013, FTA issued an Advanced Notice of Proposed Rulemaking (ANPRM), "The National Public Transportation Safety Plan, the Public Transportation Agency Safety Plan, and the Public Transportation Safety Certification Training Program; Transit Asset Management." FTA posed questions to the industry and seeks comments on this ANPRM by January 2, 2014.

National Public Transportation Safety Plan

49 USC 5329 requires FTA to create and implement a national public transportation plan to improve the safety of all public transportation systems that receive FTA financial assistance. The national safety plan will be applicable to each FTA recipient and include: (1) safety performance criteria; (2) the definition of state of good repair; (3) a safety certification training program; and (4) vehicle performance standards. Once the criteria and standards are established, transit systems will be required to set targets based on the measures, reflecting the yet-to-be-determined definition of state of good repair. These targets will be part of the transit agency safety plan (described below) and incorporated into the metropolitan and statewide planning processes.

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Public Transit Agency Safety Plans

Within one year after FTA issues a final rule on the requirement to develop an agency safety plan and certify that the plan meets FTA requirements, each state or recipient of S. 5307 or S. 5311 funds must develop, implement, and certify a public transit agency safety plan.

As indicated in the ANPRM, at a minimum, these plans must include:

- A requirement that the board of directors, or equivalent entity, approve the plan and any updates;
- Methods for identifying and evaluating safety risks throughout all elements of the recipient's public transportation system;
- Strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions;
- A process and timeline for conducting an annual review and update of the plan;
- Performance targets based on the safety performance criteria and SGR standards set out in the yet-to-be developed national safety plan;
- Assignment of an adequately trained safety officer who reports directly to the general manager, president, or equivalent officer of the recipient; and
- A comprehensive staff training program for operations personnel and personnel directly responsible for safety.

In the interim before the FTA final rule is issued, FTA encourages transit providers to begin implementing the statutory requirements of the transit agency safety plan.

State Safety Oversight

While MAP-21 established that subrecipients of S. 5311 as well as small transit providers funded by S. 5307 may have their plans drafted or certified by their state, FTA has not yet defined "small transit providers" and determined what the responsibilities of the states will be in the plan development and certification process. In the interim before the FTA final rule is issued, states can begin to assist and/or require their subrecipients to prepare agency safety plans that include the general areas required under MAP-21. Existing voluntary FTA safety and security planning guidance is available.

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MAP-21 also established the requirement for an FTA State Safety Oversight (SSO) Program specifically for oversight of rail systems. Each state with rail systems not regulated by the Federal Railroad Administration (FRA) is subject to the yet-to-be developed FTA requirements for SSO programs. This will include assuming responsibility for oversight of rail fixed-guideway public transportation safety; enforcing federal law for rail fixed-guideway public transportation safety; and establishing a SSO agency.

Public Transportation Safety Certification Training Program

Part of 49 USC 5329 requires FTA to establish a Public Transportation Safety Certification Training Program applicable to federal and state employees, contractors who conduct oversight, and those employees at transit systems who are responsible for safety oversight. FTA is currently developing proposed Interim Provisions for this program which will be released for public comment under a forthcoming notice in the *Federal Register*.

Funding for Employee Safety Training

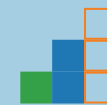
Under MAP-21, recipients of S. 5307 or S. 5311 funds may use up to 0.5 percent of apportioned formula funds to pay for up to 80 percent of the costs of an applicable transit agency employee's participation in the Safety Certification Training Program.

Currently Available FTA Guidance

Until new FTA safety requirements are established, states can follow the recommendations of existing FTA guidance.

- The April 2003 Model Bus Safety and Security Program Memorandum of Understanding (developed under a joint effort by FTA, AASHTO, APTA, and CTAA) recommended the following core elements for all community transportation providers:
 - o Security
 - o Driver/Employee Selection
 - o Driver/Employee Training

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- o Vehicle Maintenance
- o Drug and Alcohol Abuse Programs
- o Safety Data Acquisition and Analysis

In addition to these six core elements, enhanced elements are recommended for recipients in urbanized areas.

- FTA's Transit Bus Safety Program website provides numerous technical assistance resources for states and subrecipients.

Many states have established their own requirements for subrecipients based on FTA guidance. Some states require each subrecipient to prepare its own Safety, Security, and Emergency Preparedness Plan (SSEPP) or System Safety Program Plan (SSPP). For information about your state's safety- and security-related requirements for subrecipients, consult your state's SMP, grant application packages, and other guidance provided to subrecipients.

One Percent of S. 5307 Funds on Security Projects

Section 5307 grantees must annually certify that they are spending at least one percent of such funds for transit security projects, or that such expenditures for security systems are not necessary.

Safety-Related Elements in Other FTA Requirements

Safety- and security-related elements are found in other FTA requirements, including:

- Procurement of vehicles, which must comply with Federal Motor Vehicle Safety Standards (FMVSS).
- Drug and alcohol testing programs, which are entirely safety-focused.
- Asset management/maintenance, because preventive maintenance is an important element of ensuring safe operations, and the state of repair of assets impacts safety.
- National Transit Database (NTD) and Rural NTD reporting, which require statistical reporting of certain safety and security items.

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- Civil rights, because recipients of FTA funds must ensure that their emergency preparedness, disaster response, and disaster recovery planning and operations comply with federal civil rights laws, including Title VI of the Civil Rights Act of 1964 and the ADA.

SUPPLEMENTAL NOTES

- Anticipating the FTA safety requirements for small community transportation providers under MAP-21, the Community Transportation Association of America (CTAA) developed a Community Transportation Safety and Security Accreditation (CTSSA) program and a Certified Safety and Security Officer (CSSO) program, based on core elements and critical safety areas of the FTA Model Bus Safety Program.
 - o The CTSSA program accredits community transportation systems that meet certain safety- and security-related quality standards in eight core areas, based on the on-site review conducted by the organization's CSSO followed by verification. Accreditation is valid for three years.
 - o The CSSO program prepares individual transit system staff to conduct on-site assessments of their respective transit systems' preparedness in eight core areas.
- CTAA offers safety training as well as numerous additional safety-related resources tailored for S. 5311 recipients and other smaller community transportation providers, including:
 - o PASS Driver Certification Program
 - o Emergency management resources on the CTAA website
- The American Public Transportation Association (APTA) offers safety resources designed for urban transit systems, including:
 - o Manual for the Development of Bus Transit System Safety Program Plans

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TIPS ON RELATIONSHIPS TO OTHER MODULES

Safety-related items are addressed in the Drug and Alcohol, Asset Management, and Training and Technical Assistance modules.

LINKS/INFO

- April 2003 Model Bus Safety and Security Program Memorandum of Understanding-<http://scopt.transportation.org/Documents/signedmouscan.pdf>
- APTA Safety & Security web page - <http://www.apta.com/resources/safetyandsecurity/Pages/default.aspx>
- APTA Manual for the Development of Bus Transit System Safety Program Plans - <http://www3.cutr.usf.edu/bussafety/documents/apta-sspp.pdf>
- CTAA - www.ctaa.org - click on “resources” and “certification”
- FTA Advanced Notice of Proposed Rulemaking, “The National Public Transportation Safety Plan, the Public Transportation Agency Safety Plan, and the Public Transportation Safety Certification Training Program; Transit Asset Management” (10/3/13) - <http://www.gpo.gov/fdsys/pkg/FR-2013-10-03/pdf/2013-23921.pdf>
- FTA Bus Safety Program website - <http://bussafety.fta.dot.gov>
- FTA Transit Safety and Oversight web page - <http://www.fta.dot.gov/tso.html>
- FTA Transit Security website - <http://transit-safety.fta.dot.gov/Security/Default.asp>
- TSA/FTA Security and Emergency Management Action Items for Transit Agencies - <http://transit-safety.fta.dot.gov/security/SecurityInitiatives/ActionItems/actionlist.asp>



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- FTA MAP-21 Fact Sheet: Transit Safety & Oversight (Section 5329) - http://www.fta.dot.gov/documents/MAP-21_Fact_Sheet_-_Transit_Safety_and_Oversight.pdf

QUIZ

- 1. Under MAP-21, states may draft/certify the public transit agency safety plans of both their S. 5311 subrecipients and their S. 5307 small transit providers.**
 - 1) True. 2) False.
- 2. As indicated by the October 2013 ANPRM, public transit agency safety plans must include:**
 - A. Approval by a board of directors or equivalent entity.
 - B. A process and timeline for conducting triennial reviews and updates of the plan.
 - C. A comprehensive staff training program for operations personnel and personnel directly responsible for safety.
 - 1) A. 2) B. 3) A and C. 4) All of the above.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.17: Equal Employment Opportunity (EEO)



INTRODUCTION

State DOTs must ensure that their subrecipients do not discriminate against any employees or applicants for employment because of race, color, religion, national origin, sex, or age. In addition, recipients and subrecipients must take affirmative actions to employ minorities and women. As stated in 49 USC 5332(b), “no person in the United States shall on the grounds of race, color, religion, national origin, sex, or age be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any project, program or activity funded in whole or in part through financial assistance under this Act.”

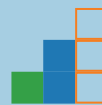
KEY CONCEPTS

- Threshold for Subrecipients
- Oversight of Applicable Subrecipients
 - EEO Officer Designation
 - Utilization analysis
 - Narrative and Statistical Assessment of Employment Practices
 - Monitoring and Reporting System

IMPORTANCE FOR STATE DOT STAFF

States are responsible for oversight of subrecipient compliance with Equal Employment Opportunity (EEO) requirements.

- States should educate subrecipients on FTA EEO requirements and be able to answer questions on what a subrecipient needs to do to comply.
- States must include EEO in the certifications and assurances in the subrecipient grant application package, as well as in the grant agreement.
- States must monitor subrecipient funding levels and organizational size to determine which subrecipients meet the threshold for an EEO program, and should document this monitoring.
- For subrecipients that cross the threshold in the previous funding year, states must obtain an EEO program that meets FTA requirements, upload the plan into TEAM, and obtain an updated plan at least every three years.
- States should include review of the subrecipient’s EEO program as part of site and/or other compliance reviews it conducts. This includes review of documentation that demonstrates that the subrecipient is following its EEO program.
- States should monitor the status of any EEO-related complaint reported by a subrecipient.



Module 2.17: Equal Employment Opportunity (EEO)

DEFINITIONS

Affirmative Action Plan: a written, detailed, results-oriented set of procedures designed to achieve prompt and full utilization of minorities and women at all levels in all parts of the recipient's work force.

Concentration: a higher representation of minorities and/or women in a job category or department as compared to their representation in the labor market.

Transit Related Employee: an employee of an FTA applicant, recipient, or subrecipient who is involved in an aspect of an agency's mass transit operation funded by FTA.

Underutilization: a lower representation of minorities and/or women in a job category or department as compared to their representation in the labor market.

SUMMARY OF FTA REQUIREMENTS

Federal Threshold Requirements

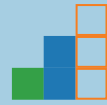
An EEO program is required of all subrecipients that both:

- 1) employ 50 or more transit-related employees (including temporary, full, and part-time), and
- 2) received capital or operating assistance in excess of \$1 million or planning assistance in excess of \$250,000 in the previous federal fiscal year.

EEO Program Components

Those subrecipients meeting the above threshold must develop, implement, and monitor an effective EEO program. Updates are

Module 2.17: Equal Employment Opportunity (EEO)



required every three years and must be uploaded to TEAM. States upload the programs submitted by subrecipients into TEAM. The program has seven required components.

1. Statement of Policy

The EEO program must include a statement issued by the CEO detailing the agency's commitment to EEO and to undertaking an affirmative action plan. The statement must note that an EEO officer is responsible for implementing the program but all management personnel share in the responsibility; that applicants/employees have the right to file discrimination complaints; that employee performance will be evaluated in part on the success of the EEO program; and that the achievement of EEO goals will ultimately provide benefits to the recipient. The statement must be signed and dated by the CEO and placed in conspicuous locations, making employees and applicants aware of the EEO commitment.

2. Dissemination

The recipient must have formal mechanisms to publicize and disseminate the EEO policy to applicants, employees, and the public.

- Internal dissemination methods (for managers and supervisors):
 - Written communication from CEO
 - Inclusion of the policy in the personnel and operations manual
 - Meetings held with managers and supervisors
- Internal dissemination methods (for non-supervisory staff):
 - Post EEO policy posters and statement on bulletin boards, near time clocks, in the cafeteria and employment/personnel office
 - Include policy in employee handbooks, reports, manuals, union contracts

Program Components

- 1) Statement of Policy
- 2) Dissemination
- 3) Designation of Personnel Responsibility
- 4) Utilization Analysis
- 5) Goals and Timetables
- 6) Assessment of Employment Practices
- 7) Monitoring and Reporting



Module 2.17: Equal Employment Opportunity (EEO)

- Meet with minority and female employees for suggestions about the program
- Present EEO program during employee orientation and training programs
- External dissemination methods (to regular recruitment sources):
 - Employment agencies, unions, educational institutions, minority and women’s organizations, civil rights organizations, and any agency that refers applicants
 - Public media sources like radio, television stations, newspapers, magazines, journals
 - All vacancy announcements/ads should state that the recipient is an EEO Employer

3. Designation of Personnel Responsibility

An EEO program officer/manager has primary responsibility for administering and implementing the EEO program and should be identified in all program submissions. As stated in the FTA circular, “the importance of an EEO program is indicated by the individual named to manage the program and the authority he or she possesses.” In line with this authority, the EEO officer should be an executive level employee (with similar financial compensation) who reports directly to the CEO and has adequate support staff.

At a minimum, the EEO officer has the following nine responsibilities (C 4704.1 p III-3):

- Develop EEO policy and written program
- Assist in collecting and analyzing data, identifying problem areas, setting goals/timetables, and developing programs
- Measure program effectiveness with internal audit and reporting systems
- Report progress to the CEO
- Serve as liaison to other organizations and groups
- Disseminate current legal information regarding affirmative action
- Assist in recruiting and establish hiring outreach sources
- Concur in all hires and promotions
- Process employment discrimination complaints

Module 2.17: Equal Employment Opportunity (EEO)



Given these responsibilities, subrecipients should assign responsibility for the EEO program with care; an EEO officer located in the human resources department could lead to conflicts of interest.

In addition to the officer, all management level staff have the following responsibilities (C 4704.1 p III-4):

- Assist in identifying problem areas
- Be involved in local minority organizations
- Participate in periodic audits to identify and remove barriers to EEO goals and objectives
- Ensure policies and procedures are followed through discussion with other managers
- Ensure minority/women employees are given full opportunities for promotions, training, etc.
- Participate in review of complaints alleging discrimination
- Support career counseling for employees
- Participate in periodic audits to ensure compliance (e.g. display of EEO posters)

4. Utilization Analysis

The utilization analysis has two purposes and two components. Its purposes are to:

- 1) Identify job categories where an underutilization and/or concentration of women or minorities exists in relation to their availability in the relevant labor market.
- 2) Establish goals, timetables, and other affirmative actions to correct employment practices that contributed to any underutilization or concentration.

It consists of:

- 1) A work force analysis- a statistical breakdown by department, job category, grade/rank, and title, cross-referenced by race and sex (in table form).
- 2) An availability analysis- a comparison of the participation rate of minorities and women with their availability in the labor market (also in table form).



Module 2.17: Equal Employment Opportunity (EEO)

The assessment should include a detailed narrative description and analysis of the following procedures/practices:

- Recruitment and selection (position descriptions, application forms, selection methods, etc.)
- Seniority, promotions, transfers, and training
- Compensation and benefits
- Discipline and terminations
- Testing used for employment selection

The analysis component must also contain statistical data, including (at a minimum) the number of individuals by race and sex who:

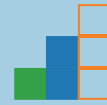
- Applied for employment
- Were offered employment
- Were actually hired
- Applied for a promotion or transfer
- Were promoted or transferred
- Were disciplined (including type of action- e.g. loss of pay) or terminated

Quantitative analyses should include the following statistical data by race, national origin, and sex:

- Number of job applicants and the number of individuals offered employment
- Number of employees in each job category that applied for a promotion or transfer, and the number of employees who were promoted or transferred in the past year
- Number of disciplinary actions and terminations (by type)

7. Monitoring and Reporting

The EEO program should include a monitoring and reporting system that:



Module 2.17: Equal Employment Opportunity (EEO)

- 1) Assesses accomplishments,
- 2) Evaluates the program and prompts corrective actions regarding goals and timetables,
- 3) Identifies units that fail to achieve goals or implement affirmative actions, and
- 4) Provides data for future projections.

Sub-Recipient Oversight

The state is responsible for ensuring that its subrecipients are in compliance—it must have an approved affirmative action plan on file for all subrecipients that meet the threshold requirements. The state must document its review of the plans for adequacy in terms of the seven components.

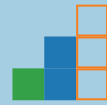
Notes on Differing State Program Approaches

Some states require an EEO program of subrecipients that do not meet the minimum thresholds, or they may require a subset of the program elements of all subrecipients with the full gamut of FTA-required elements only for those subrecipients that meet minimum thresholds. State transit staff need to be familiar with what their specific state requires, and should also be familiar with the FTA requirements and where they differ.

Oversight of subrecipient EEO programs may be a responsibility of a different office or division within your department than other areas of FTA program oversight. For example, this responsibility may be located within that state DOT office of civil rights, fair practices, or the like. This office may oversee all EEO requirements for the state, including those required by FHWA and other administrations within US DOT. State transit program staff need to know which office is responsible for EEO oversight.

SUPPLEMENTAL NOTES

Chapter V of C 4704.1 describes the remedial actions and enforcement procedures that occur when/if recipients or sub-recipients are in noncompliance with the EEO requirements (including the submission of a remedial action plan). Chapter VI of C 4704.1 details FTA procedures for filing discrimination complaints, including submission, investigation, and disposition.



Module 2.17: Equal Employment Opportunity (EEO)

TIPS ON RELATIONSHIPS TO OTHER MODULES

- EEO does not address employment discrimination against individuals with disabilities, but such discrimination is also prohibited (see the ADA module for more details). EEO is in addition to the provisions and requirements of Title VI (see the Title VI module for more details).
- An EEO clause is required in any procurements that exceed the federal threshold for micro-purchases that use FTA funds, including lower-tier contracts. For construction projects exceeding \$10,000, the special Department of Labor EEO clause must be included. For any rolling stock purchase over \$10,000, and for all other types of procurements, the EEO clause is grouped with other civil rights clauses (see the Procurement module for more details on contract clause requirements).

LINKS/INFO

- 49 USC Part 5332(b).
- FTA Equal Employment Opportunity website. <http://www.fta.dot.gov/civilrights/12327.html>.
- FTA Master Agreement Section 13. <http://www.fta.dot.gov/documents/19-Master.pdf>.
- FTA EEO Questionnaire. http://www.fta.dot.gov/images/photos/TRO_7/EEO_QUESTIONNAIRE_8-19-11.pdf.
- FTA Circular 4704.1, "Equal Employment Opportunity Program Guidelines for Grant Recipients." http://www.fta.dot.gov/documents/UMTA_C_4704.1.pdf.

Module 2.17: Equal Employment Opportunity (EEO)



QUIZ

1. A subrecipient has 20 full-time transit-related employees, 10 part-time transit-related employees, and received \$1.5 million in operating assistance in the last fiscal year. This subrecipient meets the federal threshold requiring an EEO/affirmative action program.

1) True. 2) False.

2. Below is a simplified version of a Utilization/Availability Analysis chart. In which categories is underutilization occurring?

- A) Minority Officials/Managers
- B) Female Professionals
- C) Female Technicians
- D) Minority Technicians

1) A. & B. 2) B. & C. 3) A & C. 4) A. & D.

<i>Job Title</i>	<i>Total # Employees</i>	<i>Current #</i>		<i>Current %</i>		<i>Availability %</i>	
		<i>Minority</i>	<i>Female</i>	<i>Minority</i>	<i>Female</i>	<i>Minority</i>	<i>Female</i>
Officials/Managers	21	6	8	29	38	32	32
Professionals	52	18	26	35	50	24	46
Technicians	4	2	1	50	25	18	42

Module 2.17: Equal Employment Opportunity (EEO)



3. Which of the following actions fails to meet the minimum responsibilities required of an EEO Officer?

- A) Processing employment discrimination complaints.
- B) Concurring in the hiring and promotions of employees at the managerial-level and above.
- C) Reporting periodically to the CEO on EEO progress.

1) A. 2) B. 3) C. 4) None of the above.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.18: Labor Protection/Special Warranty



INTRODUCTION

All recipients (and subrecipients) of FTA funding must comply with labor standards detailed in 49 USC 5333. The labor standards involve two parts: prevailing wages and employee protective arrangements. The latter involves the bulk of the requirements.

When federal funds are used to acquire, improve, or operate a transit system, federal law requires arrangements to protect the rights of affected transit employees. The terms and conditions of the protective arrangements are included in the grantee's contract with the FTA. The requirement to protect transit employees is contained in 49 USC 5333(b) (formerly Section 13(c) of the Federal Transit Act). Section 5333(b) specifies that the arrangements must provide for the preservation of rights and benefits of employees under existing collective bargaining agreements, continuation of collective bargaining rights, protection of individual employees against a worsening of their positions in relation to their employment, assurances of employment to employees of acquired transit systems, priority of reemployment, and paid training or retraining programs.

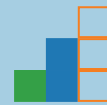
Projects funded under S. 5311 must satisfy the employee protection requirements of Section 5333(b), but this is accomplished through an expedited procedure administered by the Department of Labor (DOL) and based on the application of the "Special Section 13(c) Warranty" (Warranty).

KEY CONCEPTS

- Prevailing Wage Requirement
- Employee Protective Arrangements
 - DOL Certification
 - National (Model) Agreement
 - Special Warranty for Rural Areas
 - Special Warranty Notice to Employees

DOL procedures under the Warranty require that state agencies applying for S. 5311 funds must take certain steps to demonstrate that the terms of the Warranty are understood and agreed to by the recipients of funds. Additionally, the Warranty requires that recipients (and subrecipients) post, in a prominent and accessible place, the terms and conditions of the Warranty with a notice stating that the recipient has agreed to comply with these terms. Employees who believe they have been affected as a result of federal transit assistance may file claims with DOL under the Warranty. This means that the state (and its subrecipients) must make the necessary arrangements so that covered employees (or their union representative) may file such a claim.

Module 2.18: Labor Protection/Special Warranty



IMPORTANCE FOR STATE DOT STAFF

Federal law requires the protection of the rights and interests of transit employees who are impacted by projected FTA funding. Before FTA may award a grant for capital or operating assistance, fair and equitable arrangements must be in place for transit employees. As a recipient of FTA funds, the state must ensure that it and its subrecipients comply with labor standards and protect their employees.

DOL is responsible for compliance oversight on these requirements. If DOL finds that a S. 5311 applicant does not fulfill the procedures and requirements of the Special Warranty, the applicant would be ineligible for federal funds until the non-compliance issue is resolved.

To ensure subrecipient compliance:

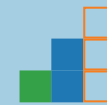
- States should educate subrecipients on the labor standards and on their responsibilities to both DOT and DOL.
- States must require Special Warranty certification and submission of DOL-required information as part of S. 5311 subrecipient applications.
- States must include the terms and conditions of the protective arrangement in subrecipient grant agreements.

DEFINITIONS

Davis-Bacon Act: enacted in 1931, the Act (as amended) requires paying local prevailing wages on public works projects, including construction projects funded by FTA valued at \$2,000 or more.

National (Model) Agreement: a protective agreement entered into in July 1975 by representatives of the American Public Transit Association, Amalgamated Transit Union, Transport Workers Union of America, AFL-CIO, Railway Labor Executives' Association, Brotherhood of Locomotive Engineers, Brotherhood of Railway and Airline Clerks, and International Association of Machinists and Aerospace Workers. The Agreement is certified by DOL as fair and equitable and is thus a source document for the standard terms and conditions of employee protective arrangements.

Module 2.18: Labor Protection/Special Warranty



Special Warranty: formalized by DOL and DOT in May 1979, the Special Warranty is the protective arrangement applicable to the S. 5311 program. It provides fair and equitable arrangements to protect the interests of employees and meets the requirements of 49 USC 5333(b).

DETAILS ON FTA REQUIREMENTS- CIRCULAR LEVEL

Prevailing Wage Requirement

Prevailing wages mean that for construction projects only, laborer and mechanic contractors and subcontractors must “be paid wages not less than those prevailing on similar construction in the locality...” Prevailing wages are determined by the Secretary of the DOL in accordance with 40 USC Chapter 31, also known as the Davis-Bacon Act.

Employee Protective Arrangements

FTA funding is conditioned on employee protective arrangements, as specified in 49 USC 5333(b), formerly Section 13(c) of the Federal Transit Act. Employee protective arrangements cover employees involved in projects funded under S. 5307, 5308, 5309, 5312, 5316, 5337, and 5339. DOL must certify the protective arrangements prior to FTA award of funding. DOL certification verifies that the terms and conditions of the arrangement are fair and equitable, following the DOL’s “Guidelines, Section 5333(b), Federal Transit Law” (29 CFR 215).

The arrangements must include provisions regarding the following:

- the preservation of rights, privileges, and benefits under existing collective bargaining agreements,
- the continuation of collective bargaining rights,
- the protection of individual employees against a worsening of their positions related to employment,
- assurances of employment to employees of acquired public transportation systems,
- assurances of priority of reemployment, and
- paid training or retraining programs.

Module 2.18: Labor Protection/Special Warranty



Employees of S. 5311 subrecipients are protected by a Special Warranty specifically for the S. 5311 program, discussed later in this module.

FTA applicants for urbanized area funds are subject to closer scrutiny by DOL. Although oversight responsibility rests with DOL, it is useful for state DOT transit staff to be aware of DOL requirements and procedures, since release of FTA funds is contingent upon DOL certification of the application to FTA. FTA forwards applications received for applicable funding. When DOL receives a grant application from FTA, it then refers a copy of the grant application and its proposed terms and conditions to the union(s) representing transit employees in the project service area and to the applicant and/or recipient. The referral begins a 60-day time frame for DOL certification.

Unified Protective Arrangement

For employees of urbanized FTA applicants who do not already have a protective arrangement (i.e., a labor union) in place, DOL draws on a document called the Unified Protective Arrangement. This document sets forth terms and conditions the FTA recipient must comply with for the protection of the transportation related employees in the transportation service area of the project. As a precondition of the release of assistance by the grantee to any additional recipient under the grant, the grantee must incorporate the Unified Protective Arrangement into its contract with the recipient, by reference, binding the recipient to these arrangements. The text of the agreement is posted on the DOL website at http://www.dol.gov/olms/regs/compliance/transit/6_UPA-01-03-11.htm.

The parties involved must agree on the terms and conditions of the protective arrangement, and have 15 days to inform DOL of any objections to the recommended terms and conditions. DOL certifies the project if the parties do not object or if DOL finds their objections insufficient. If DOL determines that the objections are sufficient, the parties are directed to negotiate for up to 30 additional days. Depending on the outcome of the negotiations, DOL issues either a final or an interim certification permitting the release of FTA funds.

Module 2.18: Labor Protection/Special Warranty



National (Model) Agreement

Employee protections can be developed through local negotiations between transit providers and employees/labor organizations. However, parties can also adopt the National (Model) Agreement as a ready-made employee protective arrangement. The National (Model) Agreement was executed in 1975 by representatives of the American Public Transportation Association, the Amalgamated Transit Union, the Transport Workers Union of America, and multiple other labor organizations. It provides fair and equitable arrangements to protect the interests of employees in general purpose operating assistance project situations and meets the requirements of 49 USC 5333(b).

Special Warranty for Rural Areas

Projects in rural areas funded through S. 5311 have different employee protective arrangement requirements: DOL's Special Warranty. The Special Warranty, originally known as the Special 13(c) Warranty, represents the understandings of a DOL and DOT reached in May 1979 and includes the provisions of the National (Model) Agreement.

The Special Warranty for S. 5311 providers allows for an expedited procedure administered by DOL, protecting the labor rights of employees without the necessity for DOL review of each individual subrecipient's application. Instead, DOL reviews the state's Section 5333(b) submittals for its S. 5311 application.

The Special Warranty details labor issues such as collective bargaining and the rights of employees who are dismissed or displaced from their jobs. It stipulates that the collective bargaining rights of employees, "including the right to arbitrate labor disputes and to maintain union security and checkoff arrangements," are preserved. It also defines the differences between a displaced and a dismissed employee and computes the accurate allowance for each type of individual. Furthermore, it sets the terms for the allowances and coverage related to employee change of residence.

As the S. 5311 applicant, the state must incorporate the terms of the Special Warranty into subrecipient applications and agreements. As part of their annual certifications and assurances, S. 5311 subrecipients must agree to the 5333(b) labor provisions. The state must list in the overall S. 5311 application to the FTA all the transportation providers in the service area (subrecipients and others), plus

Module 2.18: Labor Protection/Special Warranty



the labor organizations representing the employees of those providers. The FTA then notifies the DOL of all funding approved under S. 5311 with a copy of each approved application.

Prior to its repeal in MAP-21, the Special Warranty also applied to the Over-the-Road Bus Program (formerly S. 3038 of TEA-21). Except in special cases, the requirements of 5333(b) do not apply to subrecipients funded under the Enhanced Mobility of Seniors and Individuals with Disabilities (S. 5310).

Section 5333(b) Notice to Employees

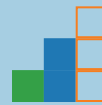
FTA recipients and subrecipients (including S. 5311) are required to post, in a prominent and accessible place, a notice stating that they have received federal assistance and agreed to comply with the terms of 49 USC, Section 5333(b).

Third-Party Contracts for Transportation Services

When a recipient acquires public transportation services from a third party contractor, the terms of the recipient's DOL certification of public transportation employee protective arrangements will apply to work under the contract provided by those employees covered by the certification. Consequently, as a matter of contractor responsibility, the recipient must include provisions in its third party contract ensuring compliance or obtain the third party contractor's agreement in another form.

SUPPLEMENTAL NOTES

- Employees who believe they have been adversely affected as a result of federal transit assistance may file claims under the procedures set forth in the protective arrangements certified by DOL.
- Non-union employees have the same level of protection by the DOL certification as employees who are represented by a labor organization (see the DOL Website for its standard non-union protective arrangement).



Module 2.18: Labor Protection/Special Warranty

- Labor protection requirements arose from the passage of the Urban Mass Transportation Act of 1964. Transit unions were concerned about possible negative impacts of federal funding: technologies and automation could reduce the need for labor, and/or private employee rights (regarding wages, hours, working conditions, benefits, etc.) could be lost during public acquisition. For an indepth analysis, see Woodman, Starke, and Schwarz, "Transit Labor Protection- A Guide to Section 13(c) Federal Transit Act." Transit Cooperative Research Program. June 1995. http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_lrd_04.pdf.

TIPS ON RELATIONSHIPS TO OTHER MODULES

- Labor protections applicable to third party contracts, including the Davis-Bacon Act and S. 5333(b), must be included in applicable solicitations. This requirement is briefly referenced in the Procurement Policies, Process, and History module.

LINKS/INFO

- FTA Master Agreement Section 28. <http://www.fta.dot.gov/documents/19-Master.pdf>.
- 29 CFR 215, Guidelines, Section 5333(b), Federal Transit Law. <http://www.ecfr.gov>.
- 49 USC 5333.
- National (Model) Agreement, Pursuant to Section 13(c) of the Urban Mass Transportation Act of 1964, as Amended. <http://www.dol.gov/olms/regs/compliance/agreement.htm>.
- Office of Labor-Management Standards, US Department of Labor Website. <http://www.dol.gov/olms/regs/compliance/compltransit.htm>.

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- Special Warranty Arrangement. Office of Labor-Management Standards, US Department of Labor. October 1, 2008. http://www.dol.gov/olms/regs/compliance/transit/07_Special_Warranty.htm.

QUIZ

1. Do Section 5333(b) protections apply to non-union employees?

1) Yes. 2) No.

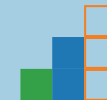
2. Employee protective arrangements:

- A. Preserve and continue existing collective bargaining rights
- B. Create new collective bargaining relationships
- C. Offer assurances of employment to employees of acquired public transit systems

1) A. 2) B. 3) A and C. 4) B and C.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.19: Drug and Alcohol Testing and Drug-Free Workplace Act Programs



INTRODUCTION

Recipients of S. 5307, 5309, or 5311 funds must have a drug and alcohol testing program in place for all safety-sensitive employees. In addition, grantees that receive an award directly from a federal agency are required to maintain a drug-free workplace for all employees and to have an ongoing drug-free awareness program. The drug-free workplace and awareness requirements do not apply to subrecipients but do apply to the state DOT as an employer.

The regulations are:

- 49 CFR Part 655 “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations”
- 49 CFR Part 40 “Procedures for Transportation Workplace Drug Testing Programs”
 - 49 CFR Part 32 “Governmentwide Requirements for a Drug-Free Workplace (Financial Assistance)”
 - 41 USC Sections 701 “Drug Free Workplace Act (DFWA) of 1988

KEY CONCEPTS

- Drug and Alcohol Program for Safety-Sensitive Employees
 - o Applicability
 - o Required Policies
 - o Substances Tested
 - o Types of Testing
 - o Pre-Employment Procedures
 - o Random Testing Rates
 - o Post Accident Testing
 - o Monitoring Vendors
- Drug-Free Workplace Act Policy and Program

IMPORTANCE FOR STATE DOT STAFF

States are responsible for passing through drug and alcohol testing requirements; providing technical assistance in understanding and meeting the requirements; and overseeing the drug and alcohol programs of subrecipients and their contractors, subcontractors, and lessees with safety-sensitive employees. The oversight program must ensure that all aspects of the drug and alcohol programs, including use of vendors and vendor activities, are in compliance with 49 CFR Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations, as amended, and 49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs, as amended.

Module 2.19: Drug and Alcohol Testing and Drug-Free Workplace Act Programs



DEFINITIONS

Accident: an occurrence associated with the operation of a vehicle, if as a result:

- (1) An individual dies; or
- (2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
- (3) With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle(s) are transported away from the scene by a tow truck or other vehicle; or
- (4) With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, the public transportation vehicle is removed from operation.

Breath Alcohol Technician (BAT): An individual who instructs and assists individuals in the alcohol testing process and operates an EBT.

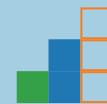
Collection Site: a place where employees present themselves for the purpose of providing a urine specimen for a drug test and/or for a breath alcohol test.

Consortium/Third-Party Administrator (C/TPA): a service agent that provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT/FTA drug and alcohol testing programs of its members.

Covered Employee: a person, including an applicant or transferee, who performs or will perform a safety-sensitive function. A volunteer is a covered employee if:

- (1) The volunteer is required to hold a commercial driver's license to operate the vehicle; or
- (2) The volunteer performs a safety-sensitive function for an entity subject to this part and receives remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity.

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Evidential Breath Testing (EBT): An EBT approved by the National Highway Traffic Device Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's Conforming Products List of Evidential Breath Measurement Devices (CPL).

Medical Review Officer (MRO): a person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

Safety-Sensitive Function: any of the following duties, when performed by employees of recipients, subrecipients, operators, or contractors:

- (1) Operating a revenue service vehicle, including when not in revenue service;
- (2) Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
- (3) Controlling dispatch or movement of a revenue service vehicle;
- (4) Maintaining (including repairs, overhaul, and rebuilding) a revenue service vehicle or equipment used in revenue service. This does not apply to an employer who receives funding under S. 5307 or 5309, is in an area less than 200,000 in population, and contracts out such services; or an employer who receives funding under S. 5311 and contracts out such services;
- (5) Carrying a firearm for security purposes.

Substance Abuse Professional (SAP): a person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

DETAILS ON FTA REQUIREMENTS

Drug and Alcohol Program for Safety-Sensitive Employees

Applicability

Recipients of S. 5307, 5309/5339, or 5311 funds must have a drug and alcohol testing program in place for all safety-sensitive employees.

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FTA drug and alcohol testing requirements may not apply to grantees that receive FTA funds exclusively for facilities and do not operate service under S. 5307, 5309/5339, or 5311 if these funds can be segregated from other program funds.

Volunteer drivers are not subject to testing unless the volunteers are required to hold a CDL or receive remuneration in excess of expenses incurred while engaged in a safety-sensitive function.

Subrecipients that operate a ferry system are considered to be in compliance with FTA regulations when they comply with the U.S. Coast Guard's (USCG) chemical and alcohol testing requirements. However, those ferry operations are subject to FTA's random alcohol testing requirement for employees considered safety-sensitive by the USCG (crew members with a merchant mariners document or under a certificate of inspection), since the USCG does not have a similar requirement.

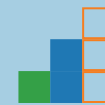
States that have subrecipients subject to drug and alcohol testing as part of a Federal Motor Carrier Safety Administration (FMCSA) program must ensure that any individual who also provides services to the transit system is subject to FTA regulations while performing FTA-defined safety-sensitive functions. For example, a municipal transit system may have maintenance performed by a mechanic employed by the city government who repairs transit vehicles as well as other city-operated equipment. At times when this employee works on transit vehicles, he or she would be subject to FTA regulations specifically in post-accident and reasonable suspicion events.

Maintenance contractors in rural and small urbanized areas (areas under 200,000 population) are not subject to drug/alcohol testing requirements. In large urbanized areas, contractors performing safety-sensitive work, such as tire maintenance and overhaul or rebuild of vehicles, engines, and parts or body work, are subject to FTA regulations unless the work is done on an ad-hoc (non-routine) basis.

Warranty work performed by employees of a bus manufacturer is not subject to the regulations. Also, vendors from whom grantees purchase or exchange rebuilt engines or other components are not subject to the regulations unless that work is regular and on-going.

Note that first tier contractors that provide maintenance services to an operations contractor are subject to FTA's drug and alcohol testing regulations.

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If taxicab companies are used to provide transit services (e.g., paratransit), the applicability of drug and alcohol testing depends on the nature of the service. If there is a contract with one or more taxicab companies and the subrecipient schedules and dispatches the trips, then the drug and alcohol testing regulations apply. However, FTA regulations do not apply if a transit patron (or broker) chooses the taxicab company with a user-side subsidy or voucher, even if there is only one company available. The regulations do not apply to taxicab maintenance contractors, provided the primary purpose of the taxicab company is not public transit service.

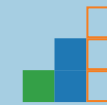
Off-duty police officers under contract to a subrecipient are subject to FTA drug and alcohol testing. Police officers who, as part of their normal duties, patrol public transit facilities are not subject to FTA testing. When a subrecipient contracts the local police department but does not supervise the officers and the officers also respond to nontransit-related police calls, the officers are not subject to FTA's drug and alcohol rules.

Required Policies

Subrecipients (and their contractors, subcontractors, and lessees) with safety-sensitive employees must have a drug and alcohol policy detailing the provisions of their drug and alcohol program. The following checklist identifies the minimum requirements of a policy as defined by 49 CFR 655.15:

- Proof of policy adoption by the appropriate governing body with effective date indicated.
- Identity of the person designated by the employer to answer questions about the anti-drug and alcohol misuse program.
- Categories of employees who are subject to testing.
- Prohibited behavior, including when the regulations prohibit the use of alcohol and drugs.
- Testing circumstances for drugs and alcohol (i.e., pre-employment, random, post-accident, reasonable suspicion, return-to-duty, and follow-up testing).
- Drug and alcohol testing procedures consistent with 49 CFR Part 40, as amended.
- Requirement that covered employees submit to drug and alcohol testing administered in accordance with FTA regulations.
- Description of the behavior and circumstances that constitute a refusal to take a drug and/or alcohol test and a statement that a refusal constitutes a verified positive test result. Instead of listing all the refusals, the policy may state that refusals to test

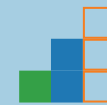
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are listed in 49 CFR Part 40 as amended or 49 CFR 40.191 as amended for urine collections and 49 CFR 40.261 as amended for breath tests. The policy should then state that a copy of 49 CFR Part 40 is available upon request. However, if the policy lists any refusals to test, the policy must list all of them. The following describes refusals under the DOT program:

1. Failing to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, after being directed to do so by the employer.
 2. Failing to remain at the testing site until the testing process is complete (an employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test).
 3. Failing to provide a urine specimen for any drug test required by this part or DOT agency regulations.
 4. Failing to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
 5. Failing or declining to take an additional drug test the employer or collector has directed you to take.
 6. Failing to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or employer. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test.
 7. Failing to cooperate with any part of the testing process (e.g., refusing to empty pockets when directed by the collector, behaving in a confrontational way that disrupts the collection process, failing to wash hands after being directed to do so by the collector).
 8. In the case of a directly observed or monitored collection in a drug test, failing to permit the observation or monitoring of your provision of a specimen.
 9. For an observed collection, failing to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
 10. Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process.
 11. Admitting to the collector or MRO that you adulterated or substituted the specimen.
- Description of the consequences for a covered employee who has a verified positive drug test result or a confirmed alcohol test

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with an alcohol concentration of 0.04 or greater. If the system has a second chance policy, a description of the evaluation and treatment processes must be included.

- Description of the consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04.

In addition to the requirements listed above, the policy should include the subrecipient's policy toward retesting of negative dilute urine collections. 49 CFR 40.197 states that if the MRO informs the agency that a negative drug test was dilute, the agency may, but is not required to, direct the employee to take another test immediately. All employees must be treated the same for this purpose. For example, the subrecipient must not retest some employees and not others. The subrecipient may retest for some types of tests (e.g., pre-employment tests) and not others. The policy should state whether or not immediate retesting for negative dilutes is required and, if required, that the second test will be the test of record.

Some subrecipients may have modeled their testing programs after FMCSA regulations (49 CFR Part 82). FMCSA regulations do not meet FTA requirements. For example, FMCSA only covers CDL holders. If the program refers to "covered employee" as an employee with a CDL, the program is probably fashioned after FMCSA regulations.

Substances Tested

The following substances are required to be tested for: marijuana, cocaine, opiates, phencyclidine, amphetamines, and alcohol. If the employer lists sub-categories under the amphetamines and opiates, they must list them all and be consistent with Part 40: Opiates (Morphine, Codeine, and Heroin/6-Acetylmorphine), Amphetamines (Amphetamine, Methamphetamine, MDMA, MDEA, and MDA). Employers should not list cut-off concentrations for drugs unless they agree exactly with Part 40.87.

Types of Testing

Six types of testing are required:

- Pre-employment (mandatory for drugs and optional but consistent for alcohol)

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- Random
- Post-accident
- Reasonable suspicion
- Return to duty (only for employers with a second chance policy—direct observation required)
- Follow-up (only for employers with a second chance policy—direct observation required)

If pre-employment tests are conducted, Part 40 testing procedures must be followed. Employees who have returned to duty from an absence of 90 days or more and have been removed from the random testing pool during that time must pass a pre-employment test, not a return to duty test, before being placed back into safety-sensitive duty.

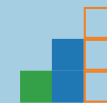
If there is a second chance policy for employees who admit to drug or alcohol use/misuse outside the testing process, any return to duty and follow up testing is done under the employer's authority, not FTA's, as 49 CFR Part 655 does not address employees who self-disclose drug use or alcohol misuse.

Pre-Employment Procedures

Subrecipients (and their contractors, subcontractors, and lessees) with safety-sensitive employees, after obtaining an employee's written consent (as per 49 CFR Part 40.25), must request information on the DOT drug and alcohol testing history of anyone who is seeking to begin performance of safety-sensitive duties for the subrecipient for the first time (i.e., a new hire, or if an employee transfers into a safety-sensitive position). Employers must request the following information from other DOT-regulated employers who have employed the individual during any period during the two years before the date of application or transfer:

- Alcohol tests with a result of 0.04 or higher alcohol concentration
- Verified positive drug tests
- Refusals to be tested (including verified adulterated or substituted drug test results)
- Other violations of DOT agency drug and alcohol testing regulations
- The employee's successful completion of DOT return-to-duty requirements (including follow-up tests), if applicable

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If the previous employer does not have information about the return-to-duty process (e.g., for an employer who did not hire an employee who tested positive on a pre-employment test), the subrecipient must obtain this information from the employee.

The subrecipient must obtain and review this information before the employee first performs safety-sensitive functions, if feasible. If this is not feasible, the employer must obtain and review the information as soon as possible. After 30 days, the subrecipient must not permit the employee to perform safety-sensitive functions unless it has obtained or made and documented a good faith effort to obtain this information.

If the employee refuses to provide written consent, the subrecipient must not permit the employee to perform safety-sensitive functions. If the subrecipient obtains information that the employee has violated a DOT agency drug and alcohol regulation, it must not use the employee to perform safety-sensitive functions unless it also obtains information that the employee has subsequently complied with return-to-duty requirements.

The subrecipient must also ask the employee whether he or she has tested positive or refused to test on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. If the employee admits that he or she had a positive test or a refusal to test, the subrecipient must not use the employee to perform safety-sensitive functions until and unless the employee documents successful completion of the return-to-duty process.

Random Testing

Subrecipients are also responsible for conducting drug and alcohol tests on all covered employees on a random basis. Random tests must be selected using a scientifically valid method and with no discretion by managers (i.e., all covered employees must have an equal chance of being selected). Subrecipients must ensure that the dates for administering random tests are spread reasonably throughout the calendar year (i.e., testing starts in January and there is no period during which testing is halted) and testing must be conducted on all days and hours during which safety-sensitive functions are performed. This ensures that employees will have a reasonable expectation that they might be called for a test on any day and at any time they are at work.

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Subrecipients must also ensure that random drug and alcohol tests are unannounced and unpredictable; covered employees who are notified of selection for random drug or random alcohol testing must proceed to the test site immediately. A covered employee should only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

Random testing rates of safety sensitive employees for drugs and alcohol must be conducted at levels specified by FTA. The current minimum annual random testing rate for drugs is 25 percent of the number of safety sensitive employees. The current minimum annual random testing rate for alcohol is 10 percent.

States with subrecipients that have a separate random pool for FTA safety sensitive employees must be able to document that subrecipients meet the required random testing rates. States with subrecipients that are part of a larger consortium random pool must be able to document that the consortium's random testing rates meet the FTA required rates.

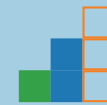
Post Accident Testing

FTA requires that a DOT post-accident test be administered under two circumstances: 1) in the event of a fatal accident; and 2) in the event of a non-fatal accident. A fatal accident is defined as an occurrence associated with the operation of a transit revenue vehicle or ancillary vehicle (a non-revenue vehicle requiring a CDL or used by transit police), which results in the loss of a life. A non-fatal accident is an occurrence associated with the operation of a transit revenue vehicle or ancillary vehicle, defined by the following:

- One or more individuals is immediately transported for medical treatment away from the accident
- Any rubber-tired vehicle incurs disabling damage requiring a tow truck
- A rail transit vehicle is taken out of service as a result of the accident

Following a fatal accident involving a transit vehicle, subrecipients (and their contractors, subcontractors, and lessees) with safety-sensitive employees are required to test all surviving covered employees operating the vehicle at the time of the accident and, using the best available information at the time of the decision, any other covered employee whose performance may have contributed to the accident.

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Following a nonfatal accident involving a transit vehicle, subrecipients with safety-sensitive employees are required to test all covered employees operating the vehicle and any other covered employee whose performance may have contributed to the accident unless the employer determines that an employee's performance can be completely discounted as a contributing factor to the accident. A decision not to test is made using the best information available at the time of the decision and must be documented in detail, including the decision-making process used to make the determination.

Post-accident testing for "accidents" that do not meet the definition of an accident under Part 655 must be done under the subrecipient's own authority.

Monitoring Vendors

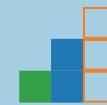
The state, as the grantee, is ultimately responsible for the integrity of the drug and alcohol testing program and the quality of testing services provided by vendors. Consequently, the state should ensure that subrecipients have a written contract that references 49 CFR Part 40 with each vendor and should monitor the quality of testing service vendors, including collection sites, MROs, and SAPs. States need only ensure that testing laboratories are HHS certified.

The state should not assume that vendors are following the correct procedures or that they are knowledgeable about FTA regulations. Note that FTA does not prescribe how a state must monitor vendors. The state simply must show evidence that monitoring is being performed at some level. Examples of monitoring activities include maintaining on file copies of vendor qualifications, conducting periodic mock collections, investigating reports of employees or subrecipients of flawed procedures, requiring detailed explanations for cancelled tests, and documenting error correction training.

As it is the responsibility of the employer to ensure that program records are accurate and current and that they comply fully with FTA regulations, states and subrecipients should review copies of Custody and Control Forms (CCFs) and Alcohol Testing Forms (ATFs) to ensure they are completed accurately and legibly and should follow up with collections when forms are not completed correctly or indicate proper procedures have not been followed.

Note that 49 CFR 40.121, as amended, requires MROs to be re-qualified and tested every five years.

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Reporting - Annual Calendar Year Management Information System (MIS)

FTA recipients and subrecipients prepare and maintain a summary of the results of their anti-drug and alcohol misuse testing programs performed during the previous calendar year. Subrecipients and the state must prepare, maintain, and submit to FTA annual MIS reports and collect, maintain, and submit annual MIS reports for S. 5307, 5309, and 5311 subrecipients, contractors, subcontractors, and lessees with safety sensitive employees summarizing drug and alcohol program testing results. The reports cover the prior calendar year. The MIS reports must be submitted to the FTA Office of Safety and Security or its designated agent by March 15 following the calendar year for which the reports were prepared. While paper reports are still accepted, FTA strongly encourages grantees to submit via the Internet at <http://damis.dot.gov>. Subrecipients generally upload their MIS reports to the federal site but the state DOT is responsible for reviewing and approving these reports before they are submitted.

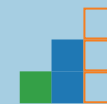
Drug-Free Workplace Act (DFWA) Policy and Program

Grantees that receive an award directly from a federal agency are required to maintain a drug-free workplace for all employees and to have an ongoing drug-free awareness program. The drug-free workplace requirements do not apply to subrecipients.

The state (and other direct recipients) is required to have and distribute to transit related employees a written policy that states that the workplace is drug-free and that it prohibits the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the workplace. The state must notify employees that they must abide by the terms of the policy statement as a condition of employment. The state is required to inform all employees that, if convicted of a drug statute violation that occurred in the workplace, they are to report it to the employer in writing no later than five calendar days after such a conviction. The DFWA policy can be in the FTA Drug and Alcohol Testing Policy as long as it is clearly differentiated and its applicability is extended to all employees, not just safety-sensitive employees.

The DFWA requirement applies to employees of a recipient directly engaged in the performance of work under the grant, including both direct and indirect charge employees as well as temporary employees on the recipient's payroll. If an indirect charge employee's impact or involvement in the performance of work under the award is insignificant to the performance of the award, then the requirements do not apply to that employee. The requirements do not apply to volunteers, consultants, or independent contractors

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not on the state's payroll, or employees of subrecipients or contractors in covered workplaces. These requirements should not be confused with the FTA Drug and Alcohol Testing Program, which applies only to safety-sensitive employees as well as contractors and subcontractors with safety-sensitive employees.

In addition to establishing and maintaining a drug-free workplace environment, the state must establish an ongoing drug-free awareness program that informs employees about the dangers of drug abuse and any available drug counseling, rehabilitation, and employee assistance programs. This information can be distributed periodically and on a general basis to all employees. In some cases, states may rely on an employee assistance program to provide drug-free awareness information. This procedure is acceptable, provided the material includes a drug-free workplace message.

TIPS ON RELATIONSHIPS TO OTHER MODULES

Drug and alcohol requirements are one set of FTA requirements related to the employees of the state's subrecipients and their contracts. Other employment-related modules include Equal Opportunity Employment and Labor Protection/Special Warranty.

LINKS/INFO

Drug & Alcohol Testing

- 49 CFR Part 655 "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" <http://www.ecfr.gov/>
- 49 CFR Part 40 "Procedures for Transportation Workplace Drug Testing Programs" <http://www.ecfr.gov/>
- FTA Drug and Alcohol Testing Homepage. <http://transit-safety.fta.dot.gov/DrugAndAlcohol/default.aspx>
- FTA Drug and Alcohol MIS Reporting. <http://transit-safety.fta.dot.gov/DrugAndAlcohol/DAMIS/default.aspx>

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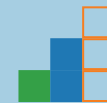


- FTA Drug and Alcohol Program Compliance Audit Questionnaires. <http://transit-safety.fta.dot.gov/DrugAndAlcohol/TechnicalAssistance/AuditQuestions/default.aspx>
- FTA Drug and Alcohol Publications. <http://transit-safety.fta.dot.gov/Publications/order/default.asp>
- FTA Drug and Alcohol Regulation Updates Newsletter. <http://transit-safety.fta.dot.gov/DrugAndAlcohol/Newsletters/Topics.aspx>
- FTA Drug and Alcohol Technical Assistance. <http://transit-safety.fta.dot.gov/DrugAndAlcohol/TechnicalAssistance/Default.aspx>
- FTA Drug and Alcohol Training. <http://transit-safety.fta.dot.gov/DrugAndAlcohol/Training/Default.aspx>
- FTA Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit. <http://transit-safety.fta.dot.gov/Publications/order/singledoc.asp?docid=61>
- US Department of Health and Human Services Certified Laboratories list. http://workplace.samhsa.gov/DrugTesting/Level_1_Pages/CertifiedLabs.html
- US DOT Office of the Secretary Prior Employer Records Release Form. <http://www.dot.gov/sites/dot.dev/files/docs/ODAPC%20Release%20of%20Information%20Form.pdf>
- US DOT Public Interest Exclusion (PIE) Overview. <http://www.dot.gov/odapc/pie>

Drug-Free Workplace

- 49 CFR Part 32 “Governmentwide Requirements for a Drug-Free Workplace (Financial Assistance) <http://www.ecfr.gov/>
- US Dept. of Labor DFWP Policy Builder Site. <http://www.dol.gov/elaws/asp/drugfree/drugs/screen1.asp>

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QUIZ

1. FTA drug and alcohol testing applies to:

- A. Volunteer drivers who are required to hold CDLs
- B. Maintenance contractors in rural and small urbanized areas
- C. Police officers who patrol public transit facilities

1) A. 2) B. 3) C. 4) All of the above.

2. Subrecipients with safety-sensitive employees must have a drug and alcohol policy that includes, among other elements, a statement that a refusal to take a drug and/or alcohol test constitutes a verified positive test result.

1) True. 2) False.

3. The Drug-Free Workplace Act policy only applies to safety-sensitive employees.

1) True. 2) False.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.20: Americans with Disabilities Act (ADA)



INTRODUCTION

Titles II and III of the Americans with Disabilities Act of 1990 (ADA) provide that no entity shall discriminate against an individual with a disability in connection with the provision of transportation service. The law sets forth specific requirements for vehicle and facility accessibility and the provision of service, including access to fixed route bus and rail and complementary paratransit service.

The statute and regulations that spell out the ADA requirements for which FTA has oversight are:

- The Americans with Disabilities Act of 1990, as amended (including changes made by the ADA Amendments Act of 2008)
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794)
- 49 CFR Part 27, “Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance”
- 49 CFR Part 37, “Transportation Services for Individuals with Disabilities”
- 49 CFR Part 38, “Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles”
- 49 CFR Part 39, “Transportation for individuals with Disabilities: Passenger Vessels”

KEY CONCEPTS

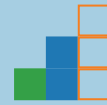
- Process for Handling and Resolving Complaints
- When Accessible Vehicles Must be Purchased
- Accessibility Features in Buses and Vans
- Facilities Accessibility
- General Service Requirements
- Service Requirements Specific to Fixed-Route
- Maintenance of Accessibility Features
- Complementary Paratransit Requirements
- Intercity Bus Service
- Ferry Service

On October 2, 2012, FTA released a proposed new circular, C 4710.1, “Americans with Disabilities Act Requirements—Vehicle Acquisition.” At the time this curriculum was drafted, the final circular had not yet been released.

IMPORTANCE FOR STATE DOT STAFF

Compliance with ADA requirements and accessibility of FTA-funded transportation services is critical for enabling people with disabilities to live independent, productive lives. In addition to S. 5310, people with disabilities along with seniors make up a significant portion of the riders of typical S. 5311-funded service.

Module 2.20: Americans with Disabilities Act (ADA)



States are responsible for oversight of subrecipient compliance with ADA. When making decisions about which services to fund, states should closely examine the service description with an eye toward service accessibility and ADA compliance.

State staff members who develop specifications for state-procured vehicles, as well as those who conduct pre-award and post-delivery audits, need to be knowledgeable about ADA standards for vehicle accessibility (49 CFR Part 38 and proposed draft FTA circular 4701.1).

The ADA regulations are complex, particularly when ADA complementary paratransit is required. State transit programs have an important role in helping subrecipients get the training and technical assistance they need to be fully compliant.

DEFINITIONS

Accessible: with respect to vehicles and facilities, complying with the accessibility requirements of parts 37 and 38 of title 49 of the U.S. Code. As a general term, accessible is used to describe services, equipment, and facilities that people that disabilities are able to use or access.

Bus: any of several types of self-propelled vehicles, generally rubber-tired, intended for use on city streets, highways, and busways, including but not limited to minibuses, forty- and thirty-foot buses, articulated buses, double-deck buses, and electrically powered trolley buses, used by public entities to provide designated public transportation service and by private entities to provide transportation service including, but not limited to, specified public transportation services. Self-propelled, rubber-tired vehicles designed to look like antique or vintage trolleys are considered buses.

Commuter Bus Service: fixed route bus service, characterized by service predominantly in one direction during peak periods, limited stops, use of multi-ride tickets, and routes of extended length, usually between the central business district and outlying suburbs.

Complementary Paratransit: comparable transportation service required by the ADA for individuals with disabilities who are unable to use fixed route transportation systems.

Module 2.20: Americans with Disabilities Act (ADA)



Demand Responsive Service or System: any system of transporting individuals, including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including but not limited to specified public transportation service, which is not a fixed route system.

Disability: with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1) The phrase *physical or mental impairment* means—

- (i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine;
- (ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;
- (iii) The term physical or mental impairment includes, but is not limited to, such contagious or noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease, tuberculosis, drug addiction and alcoholism;
- (iv) The phrase physical or mental impairment does not include homosexuality or bisexuality.

(2) The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and work.

(3) The phrase *has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase *is regarded as having such an impairment* means—

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- (i) Has a physical or mental impairment that does not substantially limit major life activities, but which is treated by a public or private entity as constituting such a limitation;
- (ii) Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others toward such an impairment; or
- (iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public or private entity as having such an impairment.

(5) The term disability does not include—

- (i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
- (ii) Compulsive gambling, kleptomania, or pyromania;
- (iii) Psychoactive substance abuse disorders resulting from the current illegal use of drugs.

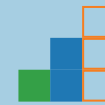
Facility: all or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Fixed Route Service or System: a system of transporting individuals (other than by aircraft), including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including, but not limited to, specified public transportation service, on which a vehicle is operated along a prescribed route according to a fixed schedule.

Intercity Bus Service: regularly scheduled bus service for the general public that operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, that has the capacity for transporting baggage carried by passengers, and that makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available.

Operates: with respect to a fixed route or demand responsive system, the provision of transportation service by a public or private entity itself or by a person under a contractual or other arrangement or relationship with the entity.

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Over-the-Road Bus (OTRB): a bus characterized by an elevated passenger deck located over a baggage compartment.

Private Entity: any entity other than a public entity.

Public Entity: 1) any state or local government; 2) any department, agency, special purpose district, or other instrumentality of one or more state or local governments; and 3) the National Railroad Passenger Corporation (Amtrak) and any commuter authority.

Service Animal: any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

University Transportation Systems: operated by public or private institutions of higher education. In order for routes operated by a transit provider to be considered university transportation services, an institution of higher education would have to have a formal arrangement with the transit operator.

Vanpool: a voluntary commuter ridesharing arrangement, using vans with a seating capacity greater than 7 persons (including the driver) or buses, which provides transportation to a group of individuals traveling directly from their homes to their regular places of work within the same geographical area, and in which the commuter/driver does not receive compensation beyond reimbursement for his or her costs of providing the service.

Wheelchair: a mobility aid belonging to any class of three or more-wheeled devices, usable indoors, designed or modified for and used by individuals with mobility impairments, whether operated manually or powered.

DETAILS ON FTA REQUIREMENTS

ADA prohibits discrimination against people with disabilities in the areas of employment, public services including transportation, public accommodations including services operated by private entities, and telecommunications. This civil rights law sets forth

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specific requirements for public transportation services, vehicle and facility accessibility, and the provision of complementary paratransit service, as well as overall requirements for a complaint process, codified by U.S. DOT in 49 CFR Part 37.

Related Regulations

The U.S. Architectural and Transportation Barriers Compliance Board (commonly known as the Access Board) develops and maintains the accessibility design criteria on which the U.S. DOT regulations are based, including the ADA Accessibility Guidelines (ADAAG) for Vehicles (codified as 49 CFR Part 38), the ADA and Architectural Barrier Acts (ABA) Accessibility Guidelines (ADA-ABA Guidelines) for Buildings and Facilities, and Guidelines for Pedestrian Facilities in the Public Right-of-Way (currently under development).

FTA recipients are also subject to the requirements of Section 504 of the Rehabilitation Act of 1973 (29 USC 794), codified by U.S. DOT in 49 CFR Part 27, which prohibits discrimination against people with disabilities under any program or activity receiving federal financial assistance.

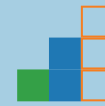
Process for Handling and Resolving Complaints

Subrecipients with 15 or more employees must have a process to resolve disability-related complaints from the public. Under 49 CFR 27.13, this process must “incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part.”

When Accessible Vehicles Must be Purchased

ADA requirements vary for public and private entities, as well as whether a vehicle is to be used in fixed route or demand-responsive operations. However, all FTA subrecipients are subject to the requirements for public entities (even if the subrecipient is a private entity) for their FTA-funded services. Also, public entities which contract out service operations to private entities are still subject to the requirements for public entities. In this case, the private contractor would be considered “standing in the shoes of” the public entity.

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Public Entities

Fixed route services - All new buses and vans purchased or leased by public entities operating fixed route service must be accessible (complying with 49 CFR Part 38 standards).

Demand responsive services - Public entities operating demand-responsive service for the general public must purchase or lease accessible vehicles unless it can be demonstrated that the system, when viewed in its entirety, provides a level of service to persons with disabilities, including persons who use wheelchairs, that is equivalent to the level of service it provides to persons without disabilities. (Demand-responsive service for the general public does not include ADA complementary paratransit service, which is subject to specific requirements described later in this module). As specified in 49 CFR 37, § 37.77, the service for the general public must be provided in the most integrated setting feasible and be equivalent with respect to:

- Response time
- Fares
- Geographic service area
- Hours and days of service
- Restrictions or priorities based on trip purpose
- Availability of information and reservation capability
- Constraints on capacity or service availability

Before procuring any non-accessible vehicle for demand-responsive service, the entity must file an equivalent service certification with FTA. Some states only allow subrecipients to purchase vehicles that are ADA accessible. If your state allows S. 5311 subrecipients to use FTA funds to buy non-accessible vehicles for use in demand responsive service, you must obtain these certifications from your subrecipients.

Appendix C to 49 CFR Part 37 of the DOT ADA regulations includes a copy of the certification of equivalent service. Grant applicants should signify that they have filed certifications of equivalent service by checking the appropriate certification of the annual certifications and assurances. Each subrecipient should monitor its service to ensure that people with disabilities have

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equal opportunity to use the transportation service as people without and document its monitoring activities and the basis of its determination. The state should monitor the subrecipients.

Vanpool systems operated by public entities or in which public entities own, purchase, or lease the vehicles are subject to equivalent service requirements. A vehicle that an individual with disabilities can use must be made available to and used by a vanpool in which such an individual chooses to participate.

Private Entities

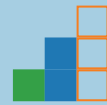
As stated in 49 CFR Part 37, §37.23, when a public entity enters into a contractual or other arrangement (including, but not limited to, a grant, subgrant, or cooperative agreement) or relationship with a private entity to operate fixed route or demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to the public entity if the public entity itself provided the service.

Although private entities have different requirements regarding acquisition of accessible vehicles, as detailed in 49 CFR Part 37, Subpart H for over-the-road buses (OTRBs) and in Subpart E for other types of vehicles, §37.23 makes it clear that FTA subrecipients that are private entities cannot provide a lower level of accessibility for FTA-funded service than public entities are required to provide. Proposed Circular FTA C 9040.1G - Formula Grants for Rural Areas: Program Guidance and Application Instructions (released as a draft for public comment shortly before this curriculum was completed) indicates in the Intercity Bus chapter that vehicles used to provide intercity bus service by a public entity or under contract to a public entity must be accessible (p. VIII-8).

States are responsible for oversight of their subrecipients, and for ensuring that vehicles operated under a contractual arrangement or FTA-funded grant agreement (or purchased with FTA grant funds) meet the accessibility standards that apply to public entities.

Oversight of private entities beyond the FTA-funded portion of their service is not the purview of FTA. Private entities, whether or not they receive federal financial assistance, are subject to enforcement action as provided in the regulations of the Department of Justice implementing Title III of ADA (28 CFR part 36).

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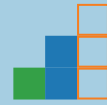


Accessibility Features in Buses and Vans

This summary addresses the physical features to be installed in vehicles, which are detailed in 49 CFR Part 38. Requirements for operating policies and practices that make use of these features are described under “General Service Requirements.”

- ***Accessible Entry*** – A lift or ramp is needed to enable someone who cannot climb stairs in getting from the sidewalk to the interior of the vehicle, such as someone who uses a wheelchair or walker. For lifts, the platform dimensions and load must meet minimum standards under 49 CFR Part 38. For ramps, the dimensions must meet maximum slope and minimum load specifications. Both lifts and ramps have requirements for surface materials, handrails, and raised edges for safety as well as threshold clearances.
- ***Doors, Steps, and Thresholds*** also have requirements for slip resistance, color contrast, and door height.
- ***Space for Maneuvering*** – There must be adequate clearances at the boarding location and through the aisle for a person using a common wheelchair to get to the securement locations. This includes positioning the farebox so that it does not obstruct traffic in the vestibule.
- ***Securement Areas*** – There must be at least one securement area for vehicles less than 22 feet in length and at least two securement areas in larger vehicles. Securement locations must meet minimum dimensions, and in vehicles 22 feet or greater, at least one must be forward-facing. Securement areas may have fold-down seats to accommodate other passengers when a wheelchair or mobility aid is not occupying the area.
- ***Securement Device*** – The regulations specify minimum design load based on the gross vehicle weight rating of the vehicle, and the securement device must limit movement of the mobility aid to two inches or less under normal operating conditions.
- ***Seat Belt and Shoulder Harness*** – In addition to the securement system for the wheelchair, each securement must have a seatbelt and shoulder harness to secure to a person. The seatbelt is to be used in addition to, never in lieu of, the securement device.

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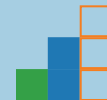
- **Priority Seating** – Vehicles must contain signage indicating that seats in the front of the vehicle, including at least one set of forward-facing seats, are priority seats for persons with disabilities, and that other passengers should make such seats available to those who wish to use them. Such signage must be posted at the securement location. This signage must meet character accessibility standards as designated in 49 CFR Part 38.
- **Interior Circulation, Handrails, and Stanchions** – The regulations indicate design standards for interior clearances as well as support rails and poles.
- **Lighting** – Lighting standards are indicated for stairways and doorways.

In addition, some vehicles to be operated in fixed-route service must include the following additional equipment:

- **Public Information System** – All vehicles to be used in fixed-route service must have an onboard public address system for stop announcements.
- **Stop Request System** – Vehicles longer than 22 feet used in multiple stop service must provide controls adjacent to the securement area for requesting stops and alerting the driver that a mobility aid user wishes to disembark. Auditory and visual indications that the request has been made are required.
- **Destination and Route Signs** – Vehicles which display exterior route and designation information must meet accessibility requirements for lighting and character dimensions as detailed in the regulations.

Facilities Accessibility

Any new facility to be used in providing public transportation services must be accessible according to the standards referenced in 49 CFR 37.9 and Subpart C to 49 CFR Part 37. If the entity alters an existing facility used to provide public transportation, the altered portions of the facility must be accessible. When the nature of an existing facility makes it impossible to comply fully with applicable accessibility standards, the alterations must be made accessible to the maximum extent feasible. 49 CFR 37.43(b) defines “to the



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maximum extent feasible” as “the occasional case where the nature of an existing facility makes it impossible to fully comply with applicable standards through a planned alteration.”

If the area being altered contains a primary function, such as a station platform, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains is required to be made accessible; unless the costs are disproportionate to the alteration, in which case whatever is not disproportionate must be made accessible. The regulations define “disproportionate” as exceeding 20 percent of the cost of the alteration to the area containing the primary function. The regulations provide guidance to define disproportionate costs, specify what costs may be counted, and provide a priority listing for accessibility features.

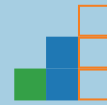
An entity must have documentation sufficient to support that it has made the facility accessible to the maximum extent feasible or that alterations required but not made to the path of travel were disproportionate to the overall alterations in terms of cost and scope.

Passenger vessel operators are required to ensure that terminal facilities are readily accessible to and usable by individuals with disabilities, including wheelchair users, by meeting the requirements specified under and referenced

Bus Stop Accessibility: Each bus stop location should be chosen such that, to the maximum extent practicable, the area where a lift or ramp is to be deployed is accessible. Further, any bus stop improvements (i.e., installation of a shelter, landing pad/sidewalk) must meet ADA standards for accessibility. In order for a bus stop to be accessible to a customer in a wheelchair, it must have a firm, stable, level landing surface at least eight feet deep (measured from the curb perpendicular to the street) and five feet wide (measured along the curb parallel to the street). In addition, accessible pedestrian connections (including sidewalks and curb cuts) between the bus stop and nearby destinations are essential for full customer access.

Subrecipients that undertake physical improvements to a stop location (such as the construction of a boarding area or sidewalk, or installation of a shelter) must ensure that the improved bus stop meets these minimum standards. If a subrecipient desires simply to post a bus stop sign to an existing pole, or place a pole in the ground on which to affix a bus stop sign (i.e., establish a new stop that does not involve construction of a sidewalk, shelter, landing pad, etc.), then the stop does not need to be made accessible. However, as a best practice, it is strongly recommended that, to the extent possible given existing pedestrian infrastructure, an accessible location should be chosen for any newly established stops that do not involve construction. Otherwise, placing a bus stop pole in the ground could create an additional paratransit obligation if the lift or ramp can't be deployed at that stop.

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in 49 CFR 37.9. There must also be an accessible route between the main terminal or other passenger waiting area and the boarding ramp or device used for the vessel. When a facility is altered, the altered portion must meet the same standards that would apply to a new facility.

States must ensure that subrecipients comply with ADA requirements when constructing or altering a facility. If there are parties other than the state or subrecipients responsible for portions of the facility, the state must ensure that they also comply with the ADA requirements.

General Service Requirements

DOT ADA regulations (49 CFR 37.161-167) detail specific general service requirements that apply across modes. The state must monitor subrecipients for compliance with applicable ADA service provision and training requirements.

Service animals. An entity must allow service animals to accompany individuals with disabilities in vehicles and facilities. The DOT ADA regulations define a service animal as any animal individually trained to work or perform tasks for an individual with a disability, including but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items. It is discriminatory to require a person with a disability to certify or register a service animal. Policies or practices that have the effect of limiting service animal use are prohibited. An entity may not require passengers to make prior arrangements when boarding a fixed route vehicle with a service animal.

Lift deployment. The entity must deploy lifts or ramps for persons who do not use wheelchairs, including standees.

Transporting of wheelchairs. Transit providers must carry any wheelchair and occupant if the lift and vehicle can physically accommodate them, unless doing so is inconsistent with “legitimate safety requirements.” Legitimate safety requirements include such circumstances as a wheelchair of such size that it would block an aisle; however, they explicitly do not include circumstances under which a transit operator may find it difficult or impossible to secure a passenger’s wheelchair to its satisfaction.

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Wheelchair securement.

DOT ADA regulations do not require that wheelchairs be secured; however, entities may establish policies requiring passengers to allow their mobility devices to be secured on buses and vans and may deny service if a passenger refuses. Entities must transport passengers when the securement system cannot accommodate the rider's wheelchair. Entities may not establish requirements concerning wheelchair equipment or specifications, such as brakes, footrests, or wheel locks.

Segways. ADA's provisions for lift and securement use specific to wheelchairs (§37.165(a) – (e)) do not apply to segways and their users. However, §37.165(g) requires transit providers

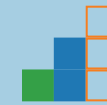
Wheelchair redefined: Historically, the ADAAG for vehicles was based on the former U.S. DOT definition of “common wheelchair,” which was defined as a mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered that does not exceed 30 inches in width and 48 inches in length measured two inches above the ground, and does not weigh more than 600 pounds when occupied.

The design of wheelchairs and other mobility devices has evolved over time and there are many more variations in use than there were when ADA was initially codified. Today, people with disabilities use a wide variety of non-traditional mobility devices, including scooters, wheelchairs with as many as six wheels, larger and heavier wheelchairs, and wheeled walkers, and transportation providers are obligated to accommodate them if, essentially, they fit on the vehicle and do not obstruct the aisle or pose a “direct threat” to the safety of others on the vehicle.

In 2011, amendments to ADA (49 CFR, Parts 37 and 38) replaced the definition of common wheelchair with simple wheelchair, defined as “a mobility aid belonging to any class of three- or more-wheeled devices, usable indoors, designed or modified for and used by individuals with mobility impairments, whether operated manually or powered.” Further, these amendments now require transportation providers to carry a wheelchair and its user, as long as the lift can accommodate the size and weight of the wheelchair and its user, and there is space for the wheelchair on the vehicle.

It is helpful for state transit staff to be aware of this change since their subrecipients may still be operating vehicles and lifts that were manufactured to meet the minimum standards for the “common wheelchair,” and may not yet have updated their operating policies to reflect the requirement to accommodate larger and heavier wheelchairs if their equipment is capable of doing so.

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to “permit individuals with disabilities who do not use wheelchairs” to use a vehicle’s lift or ramp to enter the vehicle. Under this provision, an individual with a disability who uses a segway as a mobility device must be permitted to use the lift.

Public information. Public information and communications must be made available in accessible formats. This includes provision of audio and large print formats for persons with vision impairments, or electronic formats that can be made accessible by screen reader technology. The availability of braille is not specifically required, although it may be recommended if so requested by customers.

Service to persons using respirators or portable oxygen. Entities may not deny service to individuals using respirators or portable oxygen.

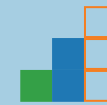
Training. ADA requires that each fixed route or demand-responsive service operator ensure that personnel are trained to proficiency, as appropriate, for their duties. This training is required so that personnel operate vehicles and equipment safely, assist passengers properly, and treat persons with disabilities who use the service in a respectful and courteous way, with appropriate attention to the differences among persons with disabilities. The DOT ADA regulations do not specify an acceptable course or frequency of training. The entity must establish appropriate standards for its particular operation. There is no requirement for recurrent or refresher training, but there is an obligation to ensure that each employee is proficient at all times. The training must be appropriate to the duties of each employee and must address both technical requirements and human relations.

Service Requirements Specific to Fixed Route

Lift deployment. Entities must not refuse to permit a passenger who uses a lift or ramp to board or disembark from a vehicle at any designated stop, unless the lift or ramp cannot be deployed, the lift or ramp will be damaged if it is deployed, or temporary conditions preclude the safe use of the stop by all passengers (i.e., the stop is “closed” for the duration of such conditions).

Priority seating. Vehicles used in fixed route service shall have signs designating priority seating for elderly persons and persons with disabilities. When an individual with a disability needs to sit in a seat or occupy a wheelchair securement location, the entity shall ask the following persons to move in order to allow the individual with a disability to occupy the seat or securement location: (i) individuals, except other individuals with a disability or elderly persons, sitting in a location designated as priority seating for elderly

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persons and persons with disabilities (or other seat as necessary); and (ii) individuals sitting in a fold-down or other movable seat in a wheelchair securement location. The entity is not required to enforce the request, but is not prevented from adopting a policy requiring people to move.

Stop announcements. Stop announcements are required for fixed route service at transfer points, major intersections, destination points, intervals along the route to orient passengers, and any stop upon request. The ADA supersedes any union agreement that prevents the entity from requiring operators to call stops. These announcements are made to passengers on board the vehicle. In addition, there is a requirement to assist individuals waiting at bus stops in knowing which bus to board. When more than one route serves a stop, the entity shall provide a means by which an individual with a visual or other disability can identify the route on which he or she wants to travel.

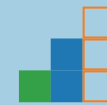
Maintenance of Accessibility Features

The state is responsible for ensuring subrecipient maintenance of ADA accessibility features for vehicles, facilities, and facility-related equipment used in public transportation service, even if the assets were not purchased or constructed with FTA funds. ADA has specific requirements for vehicle maintenance and operations.

Entities must have a system of regular and frequent maintenance checks for wheelchair lifts and ramps on non-rail vehicles that is sufficient to ensure that the lifts are operative. There is no specific requirement for daily cycling of lifts and ramps, though many entities have adopted this practice to meet the requirement. The adequacy of the procedures may be reflected in the frequency of in-service failures.

FTA does not prescribe a monitoring system or specific monitoring activities. Each state is responsible for developing and implementing a monitoring system that provides adequate assurance that ADA features are maintained in operative condition. Most states use a combination of monitoring mechanisms: periodic reporting, maintenance record review, visual inspections, and maintenance audits.

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Maintenance Requirement Specifically for Fixed Route Service

Public entities and private entities operating service under contract to a public entity must ensure that operators report immediately any in-service lift and ramp failures. If a lift or ramp failure occurs on a route where the headway is greater than 30 minutes and the passenger cannot be served, the entity is required to provide alternative service within 30 minutes. The vehicle must be removed from service before the beginning of the next service day if the lift or ramp is not repaired. The lift or ramp should be repaired before the vehicle is returned to service. In the event that there is no spare vehicle available and the entity would be required to reduce service to repair the lift or ramp, it may keep the vehicle with the inoperable lift or ramp in service for no more than three days (if the entity serves an area of more than 50,000 persons in population) or five days (if the entity serves an area of 50,000 persons or fewer in population).

Complementary Paratransit Requirements

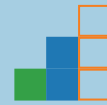
The state must monitor subrecipients that provide complementary paratransit service for compliance with applicable ADA requirements.

Each public entity operating a fixed route system must provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system. All S. 5311 subrecipients operating public fixed route service, including private non-profit entities, must comply with this requirement as they operate the service on behalf of the grantee (the state), a public entity. The requirement to provide complementary paratransit service does not apply to intercity bus, commuter bus and rail, or university service.

Route Deviation Service

Many rural and small urban transit systems provide route deviation service instead of traditional fixed route service. In terms of ADA, FTA generally categorizes route deviation service as demand response, and thus no ADA complementary paratransit service (described later in this module) is required. To determine if a transit service is fixed route or demand-responsive, two key factors must be considered:

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- Whether or not an individual must request the service in some way, typically by making a phone call in advance. With fixed route service, no action is needed to access the service—if a person is at the bus stop at the time the bus is scheduled to appear, then the person can use that service. In contrast, with demand-responsive service, the individual typically must make a phone call in order to ride the bus. A system that permits user-initiated deviations from routes generally fits the definition of demand-responsive service.
- Whether the service deviates for the general public, or just persons with disabilities. If deviations are restricted to a particular group, the service ceases to be a form of demand-responsive service for the general public. Systems should provide information to the public on how to request a deviation. The service for persons with disabilities must be equivalent to the service for the general public as specified in 49 CFR 37.77.

The state must ensure that route deviation service provided by subrecipients has the characteristics of demand-responsive service. If they do not have these characteristics, the state must ensure that that subrecipient fulfills its obligation to provide ADA complementary paratransit.

Eligibility Determinations

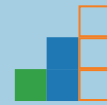
Each entity providing ADA complementary paratransit service is required to establish a process for determining eligibility.

Determination Categories. FTA strictly limits eligibility to certain categories of individuals:

1. Any person with a disability who is unable to board, ride, or disembark from an accessible vehicle without the assistance of another person (except for the operator of a lift or other boarding device).
2. Any person with a disability who could ride an accessible vehicle but the route is not accessible or the lift does not meet ADA standards.
3. Any person with a disability who has a specific impairment related condition that prevents the person from traveling to or from a boarding/disembarking location.

Individuals may be ADA paratransit eligible on the basis of a temporary or permanent disability.

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Determination Process. There are many ways that the entity can determine eligibility. The process may include functional evaluation or testing of applicants. Evaluation by a physician or health professional may be part of the process, but a diagnosis of a disability in and of itself does not establish eligibility. What is needed is a determination of whether, as a practical matter, the individual can independently use the regular fixed route transit service.

The goal of the process is to ensure that only persons who meet the regulatory criteria are regarded as eligible for complementary paratransit under ADA. If decisions are based solely on a note from a physician, and 100 percent of applicants are approved, the entity may not have an appropriate process. The entity is not prohibited from providing service to other persons; however, the eligibility process must distinguish between someone who is eligible for paratransit under the ADA and someone who is provided service on some other basis.

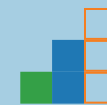
There is a legal obligation to meet the demand for service by those individuals required to be served. Thus, if the entity is encountering difficulty with its ability to meet the demand for service due to liberal eligibility criteria, a more rigorous certification process may be needed to ensure the entity can meet the demand of FTA-defined eligible individuals.

Process Timeline. The entity must process a completed application within 21 days of submittal. If after 21 days, the entity has not made an eligibility determination, the applicant is presumed eligible and must be provided service unless the entity later denies the application.

Recertification. The entity may require passengers to be recertified at reasonable intervals.

Conditional Eligibility. Transit systems can allow conditional eligibility for those individuals who meet the criteria for some of their travel but not all of their travel. Conditional eligibility must account for all factors that may prevent a given individual from using the regular accessible fixed route system. In many cases, conditional eligibility will be required based on environmental conditions, such as when snow prevents a wheelchair user from traveling to and from a bus stop. However, the process must also recognize that there may be trip-specific conditions that prevent an individual from using the fixed-route system as well. For example, a wheelchair user may be able to use the fixed route system for regular travel between home and work, but may require paratransit service when traveling to areas where a lack of pedestrian infrastructure prevents him or her from reaching a bus stop. This individual would therefore be eligible for paratransit service for trips to and from those areas.

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Determination Provided in Writing. The applicant must be given a written reason for the determination and notice of the right to an appeal. As explained in Appendix D to 49 CFR 37.125, a mere recital that the applicant can use fixed route transit is not sufficient. The reasons for denial must specifically relate the evidence in the matter to the eligibility criteria.

Appeals Process. The entity is required to establish an appeals process for persons denied eligibility or granted conditional eligibility. Applicants should be required only to submit to the grantee their intent to appeal, not be required to give a full justification in writing prior to an opportunity to be heard. The entity may require that an appeal be filed within 60 days of the denial of a person's application. The process must include an opportunity to be heard and to present information. The person hearing the appeal must be separate from the person who made the original decision to deny eligibility. The entity is not required to provide ADA complementary paratransit service pending the determination of the appeal, but if the decision takes longer than 30 days after completing the appeals process, paratransit service must be provided from that time until a decision to deny the appeal is issued. A written notification of an appeal determination, with the reason for it, is also required.

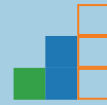
Visitors' Service. Service must be provided to visitors. Any visitor who presents ADA eligibility documentation from another jurisdiction must be provided service. If a visitor does not have ADA eligibility documentation, the entity may request proof of residency, and if the disability is not apparent, proof of disability. The entity must accept a certification by the visitor that he or she is unable to use fixed route transit. The entity is not required to provide more than 21 days of service within a 365-day period. It may request that the visitor apply for eligibility in order to receive additional service beyond this number of days.

Service Criteria

DOT ADA regulations include detailed requirements for provision of ADA complementary paratransit. These requirements include:

Origin-to-Destination Service. The regulations specify "origin-to-destination" service. If an entity's basic mode of service is curb to curb (rather than door to door), the entity must have policies and procedures in place to provide assistance from the vehicle to the first doorway for customers who need additional assistance to complete the trip. The entity cannot charge individuals needing door to door service an extra fee as this violates the nondiscrimination provisions of 49 CFR 37.5.

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Service Area. The ADA service area at a minimum includes all origins and destinations within corridors $\frac{3}{4}$ -miles from each fixed route. Within the core service area, any small areas not inside a corridor but surrounded by corridors also must be served. Outside the core service area, the entity may designate corridors with widths of up to $1\frac{1}{2}$ miles on each side of the fixed route, based on local circumstances. For rail systems (except commuter rail), the service area consists of a circle with a radius of $\frac{3}{4}$ -miles around each rail station, for trips provided between origins and destinations in different station service areas. At end stations, the entity may designate circles up to $1\frac{1}{2}$ miles. The entity is not required to provide paratransit service in areas it does not have the legal authority to operate. The entity may provide additional service.

Service Time. The days and hours of service for fixed route service and ADA complementary paratransit service must be the same. Trips must be scheduled within a maximum of one hour of the requested pickup time.

Response Time. Requests for reservations must be accepted during normal business hours on a “next day” basis (as distinguished from 24 hours in advance) on all days prior to days of service (e.g., weekends, holidays). Reservations for next day service must be taken during administrative office hours. On days prior to a service day on which the administrative offices are not open at all (e.g., a Sunday prior to a Monday service day), the reservation service would also be open 9 to 5. Reservations can be accepted using mechanical means (e.g., answering machines, voice mail, internet).

Trip Purpose. No restrictions or priorities may be placed on trip purpose.

Fares. ADA complementary paratransit fare cannot exceed twice the non-discounted fare for a trip of similar length, at a similar time of day, on the fixed-route system.

Who May Ride with the Eligible Individual. ADA complementary paratransit must be provided to an ADA eligible individual, a Personal Care Attendant (PCA) if one is necessary, and one other individual accompanying the ADA eligible individual, if requested. Additional companions should be provided service if space is available. No fare may be charged for PCAs. Companions pay the same fare as the ADA eligible individual.

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Service Capacity

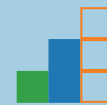
DOT ADA regulations specify that an entity may not limit the availability of complementary paratransit to eligible individuals by restrictions. Any operational pattern or practice that has the effect of limiting availability is also prohibited (e.g., limited phone reservation capacity, substantial numbers of late pickups, trip denials, missed trips, or excessively long trips). If on a regular basis, the phone lines are busy, average or long phone hold times are excessive, call abandonment rates are high, or callers after a certain time (e.g., mid-morning) are told that they cannot reserve trips for the next day, the grantee is limiting the availability of service. Grantees also must ensure that an ADA eligible individual can reach a reservation agent to cancel a trip. Grantees should be able to provide data on the performance of its phone reservation system. Grantees may not limit the number of reservations made during a phone call. Limits on the number of reservations in a phone call are a capacity constraint.

The regulations allow grantees to negotiate pickup times with ADA eligible persons within a one-hour +/- window. If the grantee cannot schedule a ride that is within one hour before or after the desired departing time, the trip must be tracked as a denial. Even if a rider accepts an offer of a trip that is outside the one hour window, the trip must be tracked as a denial due to the entity's inability to meet the ADA service criteria. Similarly, if only one leg of a round trip can be reserved, and the rider declines the trip, it must be tracked as two denials. If the rider refuses an alternate time that is within the one-hour window, it is not a denial for the purposes of ADA compliance.

Paratransit service is by nature a shared ride service that is intended to provide a level of service comparable to that of the fixed route system. A paratransit trip should be comparable in length to an identical trip on the fixed route system, including the time necessary to travel to the bus stop, wait for the bus, actual riding time, transfers, and travel from the final stop to the person's ultimate destination. "Pattern or practice" in the regulations refers to regular or repeated actions, such as repeated denials on peak days, not isolated or singular incidents. The regulations note that operational problems beyond the control of the grantee, such as unanticipated weather or traffic problems that affect all vehicular traffic, do not count as a pattern or practice under this provision. Repeated incidents caused by poor maintenance or excessively tight scheduling, however, would trigger this provision. A substantial number of late arrivals must be significant in length to trigger this provision.

In order to determine whether capacity constraints exist, entities should have a definition of what constitutes a missed trip, what

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on-time performance means, when a trip has been denied, and when travel time is too long. For example, at what point does a trip go from being late to being missed? Entities are required to plan and budget for 100 percent of demand for next day service. Intentionally planning to deny a percentage of trips is not in compliance with ADA requirements. The entity should have a mechanism in place for monitoring its on-time performance and tracking these indicators of capacity constraints. While there is no regulatory requirement for record-keeping or monitoring in any particular way, unless the entity has no trip denials and few complaints about other performance indicators, the entity must be able to demonstrate that the denials it does have, as well as the missed trips, late pickups, etc., are not an operational pattern or practice that significantly limits the availability of ADA paratransit service. Grantees should track service for ADA eligible trips separately from non-eligible trips.

Intercity Bus Service

Operators of intercity bus service funded by FTA (under contract to a public entity or in the form of a subrecipient grant) must comply with public entity service requirements. Complementary paratransit service is not required for intercity bus service.

As discussed earlier in this module, states should be aware that, beyond FTA-funded service, the ADA has separate bus accessibility requirements for private entities for which U.S. DOJ has oversight responsibility. Private operators of over-the-road buses (OTRB) are subject to the DOT ADA OTRB regulations, at 49 CFR part 37, subpart H—Over-The-Road Buses. Private operators purchasing other types of vehicles are subject to 49 CFR part 37 Subpart E—Acquisition of Accessible Vehicles by Private Entities.

All private operators are also subject to applicable accessible service requirements in Subpart G—Provision of Service, including those related to service animals, lift deployment upon request, transporting of wheelchairs, wheelchair securement, adequate accessible public information, and service to persons using respirators or portable oxygen. Fixed route operators must also comply with service requirements related to lift deployment at any fixed stop, priority seating, and stop announcements. Operators must be trained to proficiency in proper operation and maintenance of accessibility features and equipment, boarding assistance, securement of mobility aids, and sensitivity and appropriate interaction with passengers with disabilities.

States are responsible for oversight of the service provided by their FTA subrecipients or under an FTA-funded contract to the state or a subrecipient. U.S. DOT and U.S. DOJ are responsible for oversight of non-FTA-funded service.

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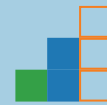
Ferry Service

Ferry service is covered by 49 CFR Part 39, “Transportation for Individuals with Disabilities: Passenger Vessels,” effective November 10, 2010. This rule prohibits owners and operators of passenger vessels, including U.S. and foreign-flag vessels, from discriminating against passengers on the basis of disability; requires vessels and related facilities to be accessible; and requires owners and operators of vessels to take steps to accommodate passengers with disabilities.

Subpart E, which addresses the accessibility of the vessels themselves, is reserved until the U.S. Architectural and Transportation Barriers Compliance Board issues applicable standards, and such standards are incorporated into the DOT ADA regulations. Accessibility of landside facilities are addressed by Subpart D, and requirements for assistance and services to passengers with disabilities are contained in Subpart F.

The state must ensure that the ferry service that it operates or oversees (or is operated or overseen by a subrecipient) complies with the following requirements:

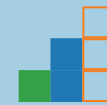
- a. Passenger vessel operators may not limit the number of persons with disabilities on a vessel, require medical documentation, require advance notice, require a passenger with a disability to travel with another person, subject passengers with disabilities to restrictions that do not apply to other passengers, or impose higher fares, surcharges, or other fees.
- b. 49 CFR 39.21(b)(2) requires public operators of passenger vessels to make reasonable modifications in policies, practices, or procedures when necessary to accommodate individuals with disabilities, unless they can demonstrate that making such modifications would fundamentally alter the nature of the service.
- c. If a passenger vessel operator provides, contracts for, or otherwise arranges for transportation to and from a passenger vessel, the entity must ensure that the transfer service is accessible to and usable by persons with disabilities.
- d. The entity must provide assistance requested by or on behalf of a passenger with a disability in moving between the terminal entrance or other vehicle drop-off point and the location where passengers board and disembark from the vessel. This includes assistance in accessing key functional areas of the terminal, such as ticket counters and baggage checking/claim areas.



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- e. Passenger vessel operators are required to promptly provide assistance to passengers with disabilities who are not able to get on or off a vessel without assistance, and may use any means to which the passenger consents (such as lifts, ramps, boarding chairs or assistance by vessel personnel). However, the entity cannot require a passenger with a disability to accept assistance if he or she is readily able to get on or off of the vessel independently.
- f. Briefings or other safety-related information must be provided through means that effectively communicate their content to persons with vision or hearing impairments, using auxiliary aids and services where necessary. This includes providing written materials in alternative formats that persons with vision impairments can use. Entities must not require any passenger with a disability to demonstrate that he or she has listened to, read, or understood the information presented, unless it is required of all passengers. Passengers with disabilities must be provided with whatever assistance is necessary to enable their full participation in safety or emergency evacuation drills that are provided to all passengers, and maintain evacuation programs, information, and equipment in locations that passengers with disabilities can readily access and use.
- g. Passenger vessel operators must permit individuals with mobility disabilities to use power and manual wheelchairs and other mobility aids such as walkers, crutches, canes, braces, or similar devices in any areas that are open to pedestrian use. In addition, the entity must also make reasonable modifications to its policies, practices, or procedures to permit the use of other powered mobility devices used by persons with mobility impairments (e.g., segways), unless it can be demonstrated that a specific device cannot be operated on board the vessel consistent with legitimate safety requirements.
- h. Passenger vessel operators are required to make a designated complaints resolution official (CRO) available for contact on each vessel and at each terminal. The CRO may be available in person or via telephone. If a telephone link is used, text telephone (TTY) or telecommunications relay service (TRS) must be available so that persons with hearing impairments are able to communicate readily with the CRO. The CRO must have the authority to make dispositive resolution of complaints on the entity's behalf, including the power to overrule the decisions of any other personnel (though not a decision of the master of the vessel on safety matters). In any situation in which a person complains or raises concern with the entity's personnel about discrimination, policies, or services with respect to passengers with a disability, and personnel do not immediately resolve the issue to the passenger's satisfaction or provide a requested accommodation, the entity's personnel must immediately inform the passenger of the right to contact a CRO and the location and/or phone number of the available CRO.

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SUPPLEMENTAL NOTES

If you or your subrecipients need technical assistance on complying with ADA, a great resource is Easter Seals Project ACTION (www.projectaction.org). FTA also provides technical assistance through its toll-free ADA Assistance Line at 1-888-446-4511 [Voice] or by e-mail at FTA.ADAAssistance@dot.gov.

The following is a brief orientation to the structure of 49 CFR Part 37, for individuals who are just being introduced to this extensive set of regulations:

- Subpart A addresses the blanket overarching prohibition against nondiscrimination applicability, references other regulations that apply to the physical design of transportation vehicles and facilities, and indicates general enforcement responsibilities, which include the Department of Justice as well as DOT/FTA.
- Subpart B addresses applicability.
- Subpart C addresses the requirements to make transportation facilities accessible.
- Subpart D details the requirements for public entities (as well as their contractors) to purchase accessible vehicles.
- Subpart E details the requirements for private entities to purchase accessible vehicles.
- Subpart F addresses ADA complementary paratransit requirements to which public entities (and their contractors) operating fixed route service are subject.
- Subpart G addresses service delivery requirements for fixed route and demand response services.
- Subpart H details the requirements that apply to OTRB operators.
- Appendix A to Subpart H of Part 37 is a form that OTRB operators use to document accessible service requests.
- Appendix A to Part 37 describes modifications to standards for accessible transportation facilities issued by the Access Board on July 23, 2004.
- Appendix B to Part 37 provides the addresses for FTA's ten Regional Offices.
- Appendix C to Part 37 provides certification forms. The Certification of Equivalent Service form is the only one state transit staff are likely to use. The other forms pertained to an ADA planning requirement that is no longer actively enforced.
- Appendix D to Part 37—Construction and Interpretation of Provisions is a very helpful resource for understanding the nuances of 49 CFR Part 37. It is intended to be used as definitive guidance concerning the meaning and implementation of these provisions, organized on a section-by-section basis.

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TIPS ON RELATIONSHIPS TO OTHER MODULES

The Equal Employment Opportunity module of this curriculum addresses employment discrimination against qualified individuals with disabilities, which is prohibited by ADA.

LINKS/INFO

- FTA ADA Website: <http://www.fta.dot.gov/civilrights/12325.html>
- Department of Transportation Disability Law Guidance: http://www.fta.dot.gov/12325_3886.html
- U.S. Access Board: <http://www.access-board.gov/>
- Easter Seals Project ACTION: <http://www.projectaction.org/>
- Disability Rights Education & Defense Fund – Topic Guides on ADA Transportation: <http://dredf.org/ADAtg/index.shtml>
- U.S. Department of Justice ADA Homepage: <http://www.ada.gov/>
- Federal Highway Administration Guidance on Pedestrian Access for Persons with Disabilities: <http://www.fhwa.dot.gov/civilrights/programs/ada.cfm>
- Proposed new circular, C 4710.1, “Americans with Disabilities Act Requirements—Vehicle Acquisition”: http://www.fta.dot.gov/legislation_law/12349_14860.html

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QUIZ

1) All vehicles purchased using S. 5310 funding must be ADA accessible.

1) True. 2) False.

2) For ADA complementary paratransit, how far in advance can a transit system require advanced reservation?

- 1) 24 hours
- 2) One business day
- 3) One day, with reservations accepted up until close of business the preceding day, including Sunday for Monday service.
- 4) Two weeks

3) Which of the following statements are true for ADA complementary paratransit?

- A. A trip that begins and ends within $\frac{3}{4}$ mile of fixed route service would fall within the ADA paratransit service area.
- B. Passenger fares cannot exceed fixed route fares for the same trip.
- C. Eligible passengers must be allowed to travel with a personal care attendant as well as a companion.
- D. ADA paratransit passengers can be certified as conditionally eligible for some trips and ineligible for other trips.

1) All of the above. 2) A & B. 3) A, C, and D. 4) None of the above.

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5) FTA-funded service that is operated by a private operator under contract to an FTA recipient or subrecipient must meet the accessibility requirements for public entities.

1) True. 2) False.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.21: Title VI



INTRODUCTION

Grantees must ensure that no person shall, on the grounds of race, color, or national origin, be excluded from participating in, or be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance. The grantee must ensure that federally supported transit services and related benefits are distributed in an equitable manner.

Applicable statutes and regulations:

- Title VI of the Civil Rights Act of 1964
- 49 CFR Part 21, “Nondiscrimination in Federally-assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964”
- Executive Order 13166: “Improving Access to Services for Persons with Limited English Proficiency”

KEY CONCEPTS

- Title VI Program
- Notifying Beneficiaries of Protection under Title VI
- Title VI Complaint Procedures and Complaint Form
- Recording and Reporting Transit-Related Title VI Investigations, Complaints, and Lawsuits
- Promoting Inclusive Public Participation
- Limited English Proficiency (LEP)
- Subrecipient Assistance
- Subrecipient Monitoring
- Title VI and Facilities Planning
- Requirements and Guidelines for Fixed Route Transit Providers

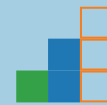
DOT/FTA Guidance:

- FTA C 4702.1B “Title VI Requirements and Guidelines for Federal Transit Administration Recipients”
- FTA C 4703.1 “Environmental Justice Policy Guidance For Federal Transit Administration Recipients”
- Federal Register: December 14, 2005 (Volume 70, Number 239, pp. 74087-74100) “DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficiency (LEP) Persons”

IMPORTANCE FOR STATE DOT STAFF

In addition to establishing their own state-wide Title VI programs,

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states are responsible for oversight of subrecipient compliance with Title VI requirements. States must assist their subrecipients in complying with DOT's Title VI regulations, including the general reporting requirements. Primary recipients (including states) must monitor their subrecipients for compliance with the regulations. Importantly, if a subrecipient is not in compliance with Title VI requirements, then the primary recipient is also not in compliance.

DEFINITIONS

Discrimination: any action or inaction, whether intentional or unintentional, in any program or activity of a federal aid recipient, subrecipient, or contractor that results in disparate treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, or national origin.

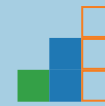
Environmental Justice: the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

Limited English Proficient (LEP) persons: persons for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English. It includes people who reported to the U.S. Census that they speak English less than very well, not well, or not at all.

Low-Income Person: a person whose median household income is at or below the U.S. Department of Health and Human Services (HHS) poverty guidelines. Recipients are encouraged to use a locally developed threshold, such as the definition found in 49 U.S.C. 5302 as amended by MAP-21: "an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in Section 673(2) of the Community Services Block Grant Act (42 U.S.C 9902(2)), including any revision required by that section) for a family of the size involved" or another threshold, provided that the threshold is at least as inclusive as the HHS poverty guidelines.

Low-Income Population: any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed FTA program, policy, or activity.

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Minority Persons:

- (1) American Indian and Alaska Native, which refers to people having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
- (2) Asian, which refers to people having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- (3) Black or African American, which refers to people having origins in any of the Black racial groups of Africa.
- (4) Hispanic or Latino, which includes persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- (5) Native Hawaiian or Other Pacific Islander, which refers to people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

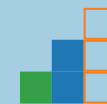
Minority Population: any readily identifiable group of minority persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient populations (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy, or activity.

National Origin: the particular nation in which a person was born, or where the person's parents or ancestors were born.

Service Standard/Policy: an established service performance measure or policy used by a transit provider or other recipient as a means to plan or distribute services and benefits within its service area.

Title VI Program: a document developed by an FTA recipient to demonstrate how the recipient is complying with Title VI requirements. Direct and primary recipients must submit their Title VI Programs to FTA every three years. The Title VI Program must be approved by the recipient's board of directors or appropriate governing entity or official(s) responsible for policy decisions prior to submission to FTA. For state DOTs, the appropriate governing entity is the state's Secretary of Transportation or equivalent.

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DETAILS ON FTA REQUIREMENTS

Title VI Program

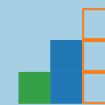
FTA requires that all direct and primary recipients (including states) document their compliance with DOT's Title VI regulations by submitting a Title VI Program to their FTA regional civil rights officer once every three years or as otherwise directed by FTA. FTA requires that all subrecipients submit Title VI Programs to the primary recipient from whom they receive funding in order to assist the primary recipient in its compliance efforts.

For all recipients and subrecipients, the Title VI Program must be approved by the entity's board of directors or appropriate governing entity or official(s) responsible for policy decisions prior to submission. This approval must be documented by a copy of the board resolution, meeting minutes, or similar documentation.

Title VI Programs must include:

- (1) A copy of the recipient's Title VI notice to the public that indicates the recipient complies with Title VI, and informs members of the public of the protections against discrimination afforded to them by Title VI. It must list the locations where the notice is posted.
- (2) A copy of the recipient's instructions to the public regarding how to file a Title VI discrimination complaint, including a copy of the complaint form.
- (3) A list of any public transportation-related Title VI investigations, complaints, or lawsuits filed with the recipient since the time of the last submission. This list should include only those investigations, complaints, or lawsuits that pertain to allegations of discrimination on the basis of race, color, and/or national origin in transit-related activities and programs and that pertain to the recipient submitting the report, not necessarily the larger agency or department of which the recipient is a part.

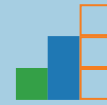
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- (4) A public participation plan that includes an outreach plan to engage minority and limited English proficient populations, as well as a summary of outreach efforts made since the last Title VI Program submission. A recipient's targeted public participation plan for minority populations may be part of efforts that extend more broadly to include other constituencies that are traditionally underserved, such as people with disabilities, low-income populations, and others.
- (5) A copy of the recipient's plan for providing language assistance to persons with limited English proficiency, based on the DOT LEP Guidance (described later in this module).
- (6) Recipients and subrecipients that have transit-related, non-elected planning boards, advisory councils/committees, or similar bodies, the membership of which is selected by the recipient, must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees.
- (7) Primary recipients must include a narrative or description of efforts the primary recipient uses to ensure subrecipients are complying with Title VI, as well as a schedule of subrecipient Title VI program submissions.
- (8) If the recipient has constructed a facility, such as a vehicle storage facility, maintenance facility, operation center, etc., the recipient must include a copy of the Title VI equity analysis conducted during the planning stage with regard to the location of the facility.
- (9) Additional information, depending on whether the recipient is a fixed route transit provider, a state, or an MPO.

Contractors and subcontractors are responsible for complying with the Title VI Program of the recipient with whom they are contracting. FTA does not require contractors to prepare or submit Title VI Programs. However, recipients are responsible for ensuring that contractors are following the Title VI Program, and complying with Title VI.

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Notifying Beneficiaries of Protection Under Title VI

Recipients are required to provide information to the public regarding the recipient's obligations under DOT's Title VI regulations and apprise members of the public of the protections against discrimination afforded to them by Title VI. At a minimum, recipients must disseminate this information to the public by posting a Title VI notice on the agency's website and in public areas of the agency's office(s), including the reception desk, meeting rooms, etc. Recipients should also post Title VI notices at stations or stops, and/or on transit vehicles.

Contents

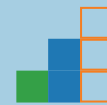
The Title VI notice must include:

- (1) A statement that the agency operates programs without regard to race, color, or national origin.
- (2) A description of the procedures that members of the public should follow in order to request additional information on the recipient's Title VI obligations.
- (3) A description of the procedures that members of the public must follow in order to file a Title VI discrimination complaint against the recipient.

Effective Practices for Fulfilling the Notification Requirement

Agencies must inform the public of their rights under Title VI through such measures as posting the Title VI notice on posters, comment cards, or flyers placed at stations, bus shelters, and in transit vehicles. The type, timing, and frequency of these measures are at the recipient's discretion, as long as the type, timing, and frequency are sufficient to notify passengers and other interested persons of their rights under DOT's Title VI regulations with regard to the recipient's program.

Notices detailing a recipient's Title VI obligations and complaint procedures must be translated into languages other than English, as needed and consistent with the DOT LEP Guidance and the recipient's language assistance plan (described later in this module).



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In order to reduce the administrative burden associated with this requirement, subrecipients may adopt the Title VI Notice developed by the primary recipient; however, subrecipients must notify passengers and other interested persons that they may file discrimination complaints directly with the subrecipient.

Title VI Complaint Procedures and Complaint Form

FTA requires all recipients to develop procedures for investigating and tracking Title VI complaints filed against them and to make their procedures for filing a complaint available to members of the public. Recipients must also develop a Title VI complaint form, and the form and procedure for filing a complaint must be available on the recipient's website.

FTA requires direct and primary recipients to report information regarding their complaint procedures in their Title VI Programs in order for FTA to determine compliance with DOT's Title VI regulations. In order to reduce the administrative burden associated with this requirement, subrecipients may adopt the Title VI complaint investigation and tracking procedures and complaint form developed by the primary recipient.

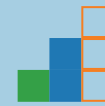
Recording and Reporting Transit-Related Title VI Investigations, Complaints, and Lawsuits

FTA requires all recipients to prepare and maintain a list of any of the following that allege discrimination on the basis of race, color, or national origin: active investigations conducted by entities other than FTA; lawsuits; and complaints naming the recipient. This list must include the date that the investigation, lawsuit, or complaint was filed; a summary of the allegation(s); the status of the investigation, lawsuit, or complaint; and actions taken by the recipient in response, or final findings related to, the investigation, lawsuit, or complaint. This list must be included in the Title VI Program.

Promoting Inclusive Public Participation

Title VI and the DOT LEP Guidance must be integrated into each recipient's established public participation plan or process (i.e., the document that explicitly describes the proactive strategies, procedures, and desired outcomes that underpin the recipient's public participation activities).

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FTA expects states and subrecipients to seek out and consider the viewpoints of minority and LEP populations in the course of conducting public outreach and involvement activities.

FTA expects an agency's public participation strategy to offer early and continuous opportunities for the public to be involved in the identification of social, economic, and environmental impacts of proposed transportation decisions.

Recipients have wide latitude to determine how, when, and how often specific public participation activities should take place, and which specific measures are most appropriate. Recipients should make these determinations based on a demographic analysis of the population(s) affected, the type of plan, program, and/or service under consideration, and the resources available. Efforts to involve minority and LEP populations in public participation activities can include both comprehensive measures, such as placing public notices at all transit stations, stops, and vehicles, as well as targeted measures to address linguistic, institutional, cultural, economic, historical, or other barriers that may prevent minority and LEP persons from effectively participating in a recipient's decision-making process. FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," includes many examples of effective strategies for engaging minority and low-income populations.

Limited English Proficiency (LEP)

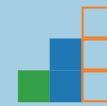
States and subrecipients must take reasonable steps to ensure meaningful access to benefits, services, information, and other important portions of their programs and activities for LEP individuals. In order to ensure meaningful access, recipients must use the information obtained in the Four Factor Analysis to determine the specific language services that are appropriate to provide. A careful analysis can help a recipient determine if it communicates effectively with LEP persons and will inform language access planning.

Four Factor Analysis

The U.S. DOT LEP Guidance advises grantees to determine what steps are necessary to provide "meaningful access" on the basis of four factors:

1. The number and proportion of LEP persons served or encountered in the eligible service population
2. The frequency with which LEP individuals come into contact with the program, activity, or service

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3. The nature and importance of the program, activity, or service provided by the program
4. The resources available to the recipient and costs

The DOT LEP Guidance also recommends that grantees develop an implementation plan to address the identified needs of the population it serves. The plan should:

- Identify LEP individuals who need language assistance
- Develop language assistance measures
- Address staff training
- Detail how to provide notice to LEP persons
- Address procedures for monitoring implementation and updating the plan

After completing the Four Factor Analysis, grantees are expected to use the results of the analyses to determine which language assistance services are appropriate.

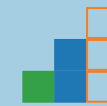
Language Assistance Plan or LEP Plan

FTA requires its grantees to develop a written Language Assistance Plan, or LEP Plan, to address the identified needs of the LEP population(s) it serves. Recipients have considerable flexibility in developing this plan. At a minimum, it must:

- Include the results of the Four Factor Analysis, including a description of the LEP population(s) served
- Describe how the recipient provides language assistance services by language
- Describe how the recipient provides notice to LEP persons about the availability of language assistance
- Describe how the recipient monitors, evaluates, and updates the language access plan
- Describe how the recipient trains employees to provide timely and reasonable language assistance to LEP populations

States and subrecipients can ensure that LEP persons have meaningful access to their programs and activities by developing and carrying out a language implementation plan pursuant to the recommendations in Section VII of the DOT LEP Guidance. Certain

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grantees or subrecipients, such as those serving very few LEP persons or those with very limited resources, may choose not to develop a written LEP plan. However the absence of a written LEP plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to a grantee's program or activities. States or subrecipients electing not to prepare a written language implementation plan should consider other ways to reasonably provide meaningful access.

Providing Meaningful Access by LEP Persons

Such methods can include the following actions:

- Translating vital written materials into the language of each frequently encountered LEP group.
- Training bilingual staff to act as interpreters and translators.
- Using telephonic and video conferencing interpretation services.
- Formalizing use of qualified community volunteers.
- Using centralized interpreter and translator services.
- Hiring staff interpreters.
- Using symbolic signs (pictographs).
- Translating into languages other than English vital written materials, such as applications or instructions on how to participate in a grantee's program, signs in bus and train stations, notices of public hearings and other community outreach, and notices advising LEP persons of free language assistance.

Subrecipient Assistance

States must assist their subrecipients in complying with DOT's Title VI regulations, including the general reporting requirements. Assistance must be provided to the subrecipient as necessary and appropriate by the state. States should provide the following information to subrecipients; such information, forms, and data may be kept in a central repository and available for all subrecipients:

- Sample notices to the public informing beneficiaries of their rights under DOT's Title VI regulations, procedures on how to file a Title VI complaint, and the recipient's Title VI complaint form.

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- Sample procedures for tracking and investigating Title VI complaints filed with a subrecipient, and when the primary recipient expects the subrecipient to notify the primary recipient of complaints received by the subrecipient.
- Demographic information on the race and English proficiency of residents served by the subrecipient. This information will assist the subrecipient in assessing the level and quality of service it provides to communities within its service area and in assessing the need for language assistance.
- Any other recipient-generated or obtained data, such as travel patterns, surveys, etc., that will assist subrecipients in complying with Title VI.

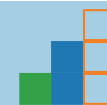
Subrecipient Monitoring

To ensure that subrecipients are complying with the DOT Title VI regulations, primary recipients (including states) must monitor their subrecipients for compliance with the regulations. Importantly, if a subrecipient is not in compliance with Title VI requirements, then the primary recipient is also not in compliance. FTA requires the following activities of primary recipients:

- (1) Document its process for ensuring that all subrecipients are complying with the general reporting requirements, as well as other requirements that apply to the subrecipient based on the type of entity and the number of fixed route vehicles it operates in peak service if a transit provider.
- (2) Collect Title VI Programs from subrecipients and review programs for compliance. Collection and storage of subrecipient Title VI Programs may be electronic at the option of the primary recipient.
- (3) At the request of FTA, in response to a complaint of discrimination, or as otherwise deemed necessary by the primary recipient, the primary recipient must request that subrecipients who provide transportation services verify that their level and quality of service is provided on an equitable basis. Subrecipients that are fixed route transit providers are subject to reporting requirements.

When a subrecipient is also a direct recipient of FTA funds (that is, applies for funds directly from FTA in addition to receiving funds from a primary recipient), the subrecipient/direct recipient reports directly to FTA and the primary recipient/designated recipient is not responsible for monitoring compliance of that subrecipient. The supplemental agreement signed by both entities in their roles as designated recipient and direct recipient relieves the primary recipient/designated recipient of this oversight responsibility.

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Title VI and Facilities Planning

When developing certain types of facilities, including, but not limited to storage facilities, maintenance facilities, and operations centers, recipients are subject to the following FTA Title VI requirements:

- a. The recipient must complete a Title VI equity analysis during the planning stage with regard to where a project is located or sited to ensure the location is selected without regard to race, color, or national origin. Recipients must engage in outreach to persons potentially impacted by the siting of facilities. The Title VI equity analysis must compare the equity impacts of various siting alternatives, and the analysis must occur before the selection of the preferred site.
- b. When evaluating locations of facilities, recipients should give attention to other facilities with similar impacts in the area to determine if any cumulative adverse impacts might result. Analysis should be done at the Census tract or block group where appropriate to ensure that proper perspective is given to localized impacts.
- c. If the recipient determines that the location of the project will result in a disparate impact on the basis of race, color, or national origin, the recipient may only locate the project in that location if there is a substantial legitimate justification for locating the project there, and where there are no alternative locations that would have a less disparate impact on the basis of race, color, or national origin. The recipient must show how both tests are met; it is important to understand that in order to make this showing, the recipient must consider and analyze alternatives to determine whether those alternatives would have less of a disparate impact on the basis of race, color, or national origin, and then implement the least discriminatory alternative.

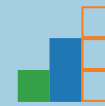
Requirements and Guidelines for Fixed Route Transit Providers

Providers of fixed route public transportation that receive federal financial assistance have additional requirements. All fixed route providers must develop systemwide standards and policies. Larger transit systems (those operating 50 or more fixed route buses in urbanized areas with over 200,000 in population) are required to collect and analyze demographic data, conduct a formal monitoring program triennially, and conduct service and fare equity analyses. These specific requirements are summarized below.

System-wide Standards and Policies

All fixed route providers must set system-wide standards and policies for each specific fixed route mode of service they provide

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(such as local bus, express bus, commuter bus, bus rapid transit, light rail, subway, commuter rail, passenger ferry, etc). System-wide standards and policies are used to examine how services and amenities are distributed across the transit system, in an effort to ensure that all users have equal access to services and amenities.

FTA-required quantitative **standards** include the following indicators for each fixed route mode:

1. Vehicle load - the ratio of passengers to the total number of seats on a vehicle.
2. Vehicle headway - the amount of time between two vehicles traveling in the same direction on a line or combination of lines.
3. On-time performance - runs completed as scheduled. This criterion first must define what is considered to be “on time.”
4. Service availability - a general measure of the distribution of routes within a transit provider’s service area.

Providers of fixed route public transportation also must adopt system-wide service **policies** to ensure service design and operations practices do not result in discrimination on the basis of race, color, or national origin. Service policies differ from service standards in that they are not necessarily based on a quantitative threshold. FTA requires fixed route transit providers to develop a policy for each of the following service indicators:

1. Distribution of transit amenities for each mode to ensure equitable distribution of amenities across the system. Transit amenities refer to items of comfort, convenience, and safety that are available to the general riding public.
2. Vehicle assignment for each mode (e.g., based on age or condition). Vehicle assignment refers to the process by which transit vehicles are placed into service in depots and on routes throughout the transit provider’s system.

Additional Requirements for Larger Providers

Fixed route transit providers that operate 50 or more fixed route vehicles in peak service and are located in a UZA of 200,000 or more in population are subject to additional requirements, as are transit providers that are placed in this category at the discretion of the FTA Director of Civil Rights in consultation with the FTA Administrator. These requirements include:

- Collecting and reporting demographic data,

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- Monitoring transit service, and
- Evaluating service and fare changes.

These requirements are not addressed in this module and states that have responsibility for overseeing subrecipients that meet these criteria should refer to FTA Circular C 4702.1B, Chapter IV.

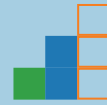
State Program Requirements

As noted above, FTA requires that all direct and primary recipients (including states) document their compliance by submitting a Title VI Program to their FTA regional civil rights officer once every three years. The state's Title VI Program must be approved by the recipient's board of directors or appropriate governing entity or official(s) responsible for policy decisions prior to submission to FTA. For state DOTs, the appropriate governing entity is the state's Secretary of Transportation or equivalent. States must submit a copy of the appropriate documentation demonstrating that the state's Secretary of Transportation or equivalent official has approved the Title VI Program.

States must include the following information in their Title VI Program:

- All general requirements.
- The requirements for transit providers if the state is a provider of fixed route public transportation.
- A demographic profile of the state.
- Demographic maps that show the impacts of the distribution of state and federal funds in the aggregate for public transportation projects.
- An analysis of the state's transportation system investments that identifies and addresses any disparate impacts.
- A description of the statewide planning process that identifies the transportation needs of minority populations.
- A description of the procedures the agency uses to ensure nondiscriminatory pass through of FTA financial assistance.
- A description of the procedures the agency uses to provide assistance to potential subrecipients, including efforts to assist applicants that would serve predominantly minority populations.

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SUPPLEMENTAL NOTES

Relationship to Environmental Justice

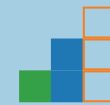
In 2012, FTA released Circular 4703.1 “Environmental Justice Policy Guidance for Federal Transit Administration Recipients”. This circular is based on the April 1995 U.S. DOT “Order to Address Environmental Justice in Minority Populations and Low-Income Populations” to fulfill the environmental justice policy objectives laid out in Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations.” The central objective of the U.S. DOT order is to ensure that all federally funded transportation-related programs, policies, or activities having the potential to adversely affect human health or the environment involve a planning and programming process that explicitly considers the effects on minority populations and low-income populations.

Under the process outlined in Executive Order 12898 and the U.S. DOT order, environmental justice issues must be considered during preparation of an Environmental Impact Statement (EIS) when required under the National Environmental Policy Act of 1969 (NEPA). FTA Circular 4703.1 provides recommendations to state DOTs, MPOs, public transportation providers, and other recipients of FTA funds on how to fully engage environmental justice populations in the public transportation decision-making process; how to determine whether environmental justice populations would be subjected to disproportionately high and adverse human health or environmental effects as a result of a transportation plan, project, or activity; and how to avoid, minimize, or mitigate these effects.

Prior to the release of both 4703.1 and 4702.1B in 2012, environmental justice principles were often confused with the requirements of Title VI, and state staff should be aware that there may still be some residual confusion among subrecipients.

While Title VI is a key tool for agencies to use to achieve environmental justice goals, Title VI imposes statutory and regulatory requirements that are broader in scope than environmental justice. There may be some overlap between environmental justice and Title VI analyses; however, engaging in environmental justice analysis under federal transportation planning and NEPA provisions will not necessarily satisfy Title VI requirements. Similarly, a Title VI analysis would not necessarily satisfy environmental justice requirements, since Title VI does not include low-income populations. Moreover, Title VI applies to all federally-funded projects and activities, not solely those that may have adverse human health or environmental effects on communities.

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TIPS ON RELATIONSHIPS TO OTHER MODULES

Title VI is one of several modules that address civil rights, including EEO (civil rights in employment), DBE (civil rights in contracting), and ADA (civil rights for people with disabilities).

LINKS/INFO

- FTA C 4702.1B “Title VI Requirements and Guidelines for Federal Transit Administration Recipients”. http://www.fta.dot.gov/legislation_law/12349_14792.html
- FTA C 4703.1 “Environmental Justice Policy Guidance for Federal Transit Administration Recipients”. http://www.fta.dot.gov/legislation_law/12349_14740.html
- FTA Title VI web page. <http://www.fta.dot.gov/civilrights/12328.html>
- FTA Environmental Justice web page. <http://www.fta.dot.gov/civilrights/14882.html>
- FTA Civil Rights Training Materials. <http://www.fta.dot.gov/civilrights/12885.html>
- DOT Limited English Proficiency (LEP) Guidance. http://www.fta.dot.gov/documents/LEP_Handbook.doc
- Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs (May 2011). <http://www.lep.gov/>
- Executive Order 13166: “Improving Access to Services for Persons with Limited English Proficiency”. http://www.fta.dot.gov/documents/LEP_Executive_Order.doc
- US DOT LEP Guidance web page. <http://www.civilrights.dot.gov/page/dots-lep-guidance>

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- *Federal Register*, December 14, 2005 (Volume 70, Number 239, pp. 74087-74100) “DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficiency (LEP) Persons”. <http://www.gpo.gov/fdsys/pkg/FR-2005-12-14/html/05-23972.htm>
- Title VI of the Civil Rights Act of 1964. <https://www.civilrights.dot.gov/page/civil-rights-act-1964#6>

QUIZ

1) FTA does not require contractors to prepare or submit Title VI Programs.

1) True. 2) False.

2) All states and subrecipients must develop a written LEP plan.

1) True. 2) False.

3) Fixed route transit providers that operate 50 or more fixed route vehicles in peak service and are located in a UZA of 50,000 or more in population are subject to additional Title VI requirements.

1) True. 2) False.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.22: Half-Fare



INTRODUCTION

For fixed route service supported with S. 5307 assistance, fares charged elderly persons, persons with disabilities, or an individual presenting a Medicare card during off peak hours must not be more than half the peak hour fare.

The statute and applicable regulations include:

- 49 USC Chapter 53, Federal Transit Laws, § 5307. Urbanized area formula grants
- 49 CFR Part 18 “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments”
- 49 CFR Part 609 “Transportation for Elderly and Handicapped Persons”

FTA guidance is found in:

- FTA Circular 9030.1D, “Urbanized Area Formula Program: Program Guidance and Application Instructions”
- FTA Proposed Circular 9030.1E, issued 4-19-13

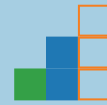
KEY CONCEPTS

- Applicability
- Eligibility Categories
- Proof of Eligibility
- Internal and Public Information
- Oversight

IMPORTANCE FOR STATE DOT STAFF

States are responsible for oversight of S. 5307 subrecipient compliance with this requirement. Some states impose this requirement on all transit operators in the state, including their subrecipients under S. 5311.

Module 2.22: Half-Fare



DEFINITIONS

Disability: with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1) The phrase *physical or mental impairment* means—

- (i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine;
- (ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;
- (iii) The term physical or mental impairment includes, but is not limited to, such contagious or noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease, tuberculosis, drug addiction and alcoholism;
- (iv) The phrase physical or mental impairment does not include homosexuality or bisexuality.

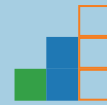
(2) The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and work.

(3) The phrase *has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase *is regarded as having such an impairment* means—

- (i) Has a physical or mental impairment that does not substantially limit major life activities, but which is treated by a public or private entity as constituting such a limitation;

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- (ii) Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others toward such an impairment; or
- (iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public or private entity as having such an impairment.

(5) The term *disability* does not include—

- (i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
- (ii) Compulsive gambling, kleptomania, or pyromania;
- (iii) Psychoactive substance abuse disorders resulting from the current illegal use of drugs.

Fixed Route Service: specified public transportation service, on which a vehicle is operated along a prescribed route according to a fixed schedule.

Senior: an individual who is 65 years of age or older.

DETAILS ON FTA REQUIREMENTS

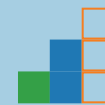
Applicability

Fares charged seniors, persons with disabilities, and Medicare cardholders during off peak hours for S. 5307 funded fixed route transportation must not be more than half the peak hours fare. FTA requires this only for S. 5307 recipients and subrecipients. States may have a state policy that extends the requirement to S. 5311 subrecipients or others.

Services to Which this Rule Applies

The requirement is applicable to:

Module 2.22: Half-Fare



- (1) All fixed route services, including service to sporting events, that operate in both peak and off peak hours and use or involve facilities and equipment financed with S. 5307 funds, whether the services are provided by the grantee directly, by a contractor, by a subrecipient, or by another entity that leases facilities and/or equipment from the grantee.
- (2) Any express and commuter service that operates beyond peak hours.
- (3) Fixed route services for which the grantee has not defined peak hours.
- (4) Fixed routes that operate with reduced fares in both the peak and off-peak.

If there are services such as a neighborhood circulator or shuttle with fares that are different from the grantee's fare for its regular local service, separate half fares are needed for each type of service.

This requirement is not applicable to:

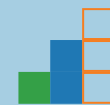
- (1) Demand responsive services, including route deviation services.
- (2) Services that operate only during peak hours, such as express and commuter routes.
- (3) Services that operate only in the off peak hours (e.g., lunchtime circulators and weekend routes to sporting events).
- (4) Services funded with other FTA assistance that do not use S. 5307 funded equipment or are not operated out of S. 5307 funded facilities.

Defining "Off Peak"

The grantee determines its peak hours. Peak hours can be seasonal. If the grantee determines it is not large enough, or demand is not strong enough, to identify or justify peak hour service, then its entire service should be defined as "off peak." In this instance, the grantee has two options:

- (1) Review ridership data and determine the peak ridership hours and develop a policy for half fare, or
- (2) Choose not to determine a peak period and offer half fares during all hours.

Module 2.22: Half-Fare



Eligibility Categories

Prior to the passage of MAP-21, half fare was required for “elderly and handicapped individuals, or an individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq., 1395 et seq.)”

While MAP-21 defines a senior as an individual aged 65 years or over, grantees are permitted to use a definition that extends this fare to younger (e.g., 62 and over) persons.

The category of “handicapped individuals” was changed in MAP-21 to include individuals “who by reason of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including any individual who is a wheelchair user or has semi-ambulatory capabilities), cannot use effectively, without special facilities, planning, or design, mass transportation service or a mass transportation facility.”

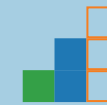
Medicare is available for people age 65 or older, younger people with disabilities, and people with end stage renal disease (permanent kidney failure required dialysis or transplant).

Proof of Eligibility

The half fare program, as applied, may require passengers to show proof of eligibility when they pay their fare. Examples of proof of eligibility include a driver’s license, Medicare card, special identification card, and ADA eligibility card. The grantee may require more than one piece of identification for determining age or disability-related qualifications.

- a. A grantee may require passengers to obtain a special identification card as the sole basis for paying the half fare. A valid Medicare card must be considered sufficient proof of eligibility for obtaining the identification card. Obtaining a special identification card must be relatively easy. For example, though not strictly prohibited, requiring individuals to travel to a single

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office, which may be inconveniently located, is not consistent with the intent of this requirement.

- b. In order to ensure that the person presenting a Medicare card is the authorized individual, the grantee may request proof of identity (another card with a photograph). There is no specific prohibition against this, provided the grantee is not asking for further proof of eligibility from the Medicare cardholder but is only checking the validity of the Medicare card.

Internal and Public Information

A policy is not effective unless it is communicated to those who will carry it out and to those who can take advantage of it. Training documents and communication with operators and others responsible for implementing the fare program should demonstrate that the grantee has notified staff of the program and included the correct information.

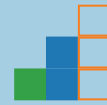
Public information should include half fare information, including Medicare eligibility, if it contains fare information. For example, if a brochure says the fare to ride the bus is \$1.00, it also should say that the fare for elderly persons, persons with disabilities, and Medicare cardholders is \$0.50 during off peak hours. Though it is not necessary to have a separate fare category for Medicare cardholders, the grantee's readily available public information must be clear that Medicare cards are accepted as proof of eligibility for the half fare program, including for persons who are not elderly.

State Oversight

The state is responsible for ensuring that subrecipients, contractors, and lessees that operate services to which the half fare requirement applies comply. The oversight program should ensure:

- a. That a half fare is offered for applicable services during off peak hours,
- b. That the definition of off peak hours is reasonable, and
- c. Identification requirements allow eligible persons to obtain the half fare, and internal and public fare information show the half fare and eligibility, including Medicare cardholder eligibility.

Module 2.22: Half-Fare



TIPS ON RELATIONSHIPS TO OTHER MODULES

This module is one of several that pertain to service characteristics, including Ensuring Service is Open to the Public, Charter Bus, School Bus, ADA, and Title VI.

QUIZ

1. Grantees may use a definition of elderly that extends half fares to those younger than 65.

1) True. 2) False.

2. Which of the following may riders use as proof of eligibility?

- A. Driver's license
- B. Medicare card
- C. ADA eligibility card

1) A. 2) B. 3) A and C. 4) All of the above.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.23: Ensuring the Services Are Open to the Public



INTRODUCTION

Section 5307, 5311, and 5339 funds are available for expenditure for public transportation projects. S. 5311(f) funds are also available for intercity bus projects in other than urbanized areas. Services, vehicles, and facilities funded by these programs must be open to the public. Charter or sightseeing service is not eligible for FTA funding.

Section 5310 program funds are available for public transportation capital projects that are planned, designed, and carried out to meet the specific needs of seniors and individuals with disabilities.

The statutes and regulations include:

- 49 USC Chapter 53, Federal Transit Laws
- FTA Master Agreement
- The program circulars for each FTA funding program

KEY CONCEPTS

- Eligible Use of Funding for Public Transportation Projects under Each Grant Program
- Incidental Use
- State Monitoring of Subrecipients

IMPORTANCE FOR STATE DOT STAFF

States are responsible for ensuring that S. 5307, 5310, 5311, and 5339 funds, as well as capital facilities and equipment that was funded under the former S. 5309 program, are being used to support eligible projects and services.

DEFINITIONS

Charter Service: transportation at the request of a third party for the exclusive use of a bus or van for a negotiated price; or transportation to the public for events/functions that occur on an irregular basis or for a limited duration (when the service is paid for by a third party or a premium fare is charged).

Module 2.23: Ensuring the Services Are Open to the Public



Intercity Bus Service: regularly scheduled bus service for the general public that operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, that has the capacity for transporting baggage carried by passengers, and that makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available.

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

DETAILS ON FTA REQUIREMENTS

Section 5307, 5311, and 5339 funds are available for expenditure for public transportation projects. S. 5311(f) funds are also available for intercity bus projects in areas other than urbanized areas. Services, vehicles, and facilities funded by these programs must be open to the public. Charter or sightseeing service is not eligible for FTA funding.

Eligible Use of Funding for Public Transportation Projects under Each Grant Program

Section 5307- S. 5307 provides funding for public transportation capital projects, operating assistance, job access and reverse commute projects, and for transportation-related planning in urbanized areas.

Section 5310- S. 5310 program funds are available for public transportation projects that are planned, designed, and carried out to meet the specific needs of seniors and individuals with disabilities.

Section 5311- S. 5311 provides funding to support public transportation in areas with a population of less than 50,000. Funding may be used for capital, operating, planning, and job access and reverse commute projects. S. 5311(f) funds are also available for intercity bus projects in other than urbanized areas.

Module 2.23: Ensuring the Services Are Open to the Public



Section 5311 service may be designed to maximize use by members of the public who are transportation disadvantaged, including elderly persons and persons with disabilities. Coordinated human service transportation that primarily serves elderly persons and persons with disabilities (but is not restricted from carrying other members of the public) is open to the general public if it is advertised as public transportation service.

Section 5339- S. 5339 (formerly S. 5309) provides funding for public transportation capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities. Intercity bus stations and terminals are eligible under S. 5339 as part of joint development projects.

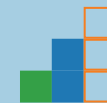
Incidental Use

A grantee may use FTA funded equipment and facilities to support incidental activities that do not detract from the provision of public transportation. However, charter or sightseeing services are not eligible for FTA funding under any of the above FTA programs.

FTA encourages maximum use of S. 5310 funded vehicles. Vehicles are to be used for the project stated in the grant application and subrecipient agreement. Beyond those needs, vehicles should be used to meet other transportation needs of elderly individuals and individuals with disabilities; to meet other federal program or project needs; and finally, to meet other local transportation needs. Subrecipients may coordinate and assist in delivering meals if the delivery services do not conflict with the provision of transit services or result in a reduction of service to transit passengers. The number and size of vehicles applied for must be determined by the number of passengers to be transported, not meal delivery capacity. Section 5310 funds may not be used to purchase special vehicles to be used solely for meal delivery or to purchase specialized equipment such as racks or heating or refrigeration units related to meal delivery.

Transit service providers receiving assistance under S. 5311 may also coordinate and assist in providing meal delivery service for homebound persons on a regular basis if this service does not conflict with the provision of mass transit service or result in a reduction of service to transit passengers. FTA expects the nutrition program to pay operating costs attributable to meal delivery. Section 5311 capital assistance may not be used to purchase special vehicles used solely for meal delivery or to purchase specialized equipment related to meal delivery. Similarly, incidental use of a vehicle for non-passenger transportation on an occasional or regular basis is also permitted, as long as it does not result in a reduction of service quality or availability of public transportation service.

Module 2.23: Ensuring the Services Are Open to the Public



State Monitoring of Subrecipients

States are responsible for ensuring that S. 5307, 5309, 5310, 5311, and 5339 funds are being used to support eligible projects and services. For capital facilities and equipment, this responsibility endures so long as FTA has a financial interest (i.e., until the end of the useful life of the facility or equipment). States need to ensure that services supported with equipment and facilities funded by S. 5307, 5309, 5311 or 5339 meet the definition of public transportation.

The state must ensure that incidental service provided by subrecipients does not interfere with the provision of transit service. The state may request information on incidental service in the subrecipient application process. Along with the number of passengers, miles, and other statistics, some states require subrecipients to report periodically on meal delivery and other incidental service. Some states observe subrecipients' service during site visits.

Some states require S. 5307 and 5311 applicants to provide information on marketing. States typically require subrecipients to report information on the services provided (e.g., populations served - general public, elderly, disabled) on a periodic basis. States might also assist subrecipients in developing marketing plans and a public transportation "brand."

Subrecipient grant applications generally request a description of the proposed service, including service area, eligible customers, days and hours of operation, and route information. The state must enter into an agreement with subrecipients prior to expending funds on a project that specifies the project to be funded under the grant.

The state is responsible for monitoring S. 5310 subrecipients to ensure that the funds are being used to support eligible transportation services for elderly individuals and individuals with disabilities. Generally, the state's subrecipient application package requests a description of the proposed project, including service area, eligible customers, and days and hours of operation. The state must enter into an agreement with subrecipients prior to expending funds on a project that specifies the project to be funded under the grant. The state may require subrecipients to report information on the services provided and populations served on a periodic basis. The state must report performance information on gaps in service filled and ridership for the program. The state may also observe a subrecipient's service during site visits.

Module 2.23: Ensuring the Services Are Open to the Public



SUPPLEMENTAL NOTES

- As a best practice, state staff should periodically review subrecipient marketing materials (websites as well brochures obtained during sight reviews) and investigate any sign of potential use of FTA-funded equipment or facilities that would constitute charter bus service, exclusive school bus transportation, or services limited to clients of specific human service agencies. When reviewing the annual grant application, checking to see that the applicant's website and printed marketing materials align with the public services described in the application is recommended. If S. 5311 services are provided by a department on aging or other human service agency, verify that the service is clearly advertised as open to individuals of any age.
- A fixed route or route deviation service should publish information about its routes - where they operate, where they stop, how to request route deviation service or flag the bus if appropriate, what the schedule is, what the fares are, the availability of ADA paratransit if applicable, and how to qualify for any reduced fares if applicable.
- A demand-response service should publish information about its geographic area of coverage, hours of service, how to request service, what the fares are, any fixed schedule guidelines, and any eligibility requirements if applicable.
- All services should include the agency's Title VI policy on public information materials. Although covered in the Title VI module, this is an important statement regarding equal availability to all members of the public.

TIPS ON RELATIONSHIPS TO OTHER MODULES

- The Charter Bus and School Bus modules describe prohibited practices that would violate the requirement to provide open-to-the-public services.
- The Title VI module addresses language that should be included on service informational materials.

Module 2.23: Ensuring the Services Are Open to the Public



QUIZ

1) Section 5310-funded vehicles can only be used to transport seniors and people with disabilities.

1) True. 2) False.

2) When can a S. 5311-funded vehicle be used in meal delivery services?

- A. Never
- B. No more than one hour per weekday, unless approved by the state
- C. On a regular basis if this service does not conflict with the provision of mass transit service or result in a reduction of service to transit passengers
- D. On a regular basis if this service is primarily geared toward seniors and people with disabilities

1) A. 2) B. 3) C. 4) D.

3) How long must a state ensure that a S. 5339-funded vehicle be used to support public transportation services?

- A. Until the grant which purchased the vehicle is closed out
- B. Three years beyond the grant close-out date
- C. For the state-established useful life of the vehicle
- D. Until the vehicle is re-titled to the subrecipient

1) A. 2) B. 3) C. 4) C & D.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.24: Charter Bus



INTRODUCTION

Recipients (and subrecipients) are prohibited from using federally funded equipment and facilities to provide charter service if a registered private charter operator expresses interest in providing the service. The charter bus prohibition protects private charter operators from unauthorized competition from FTA grant recipients. The statute and regulation governing charter bus transportation are 1) 49 USC 5323(d) and 2) 49 CFR Part 604.

There are a number of charter-like services that transit operators might provide that are not considered “charter services” and are exempt from the charter regulations. In addition, some community-based charter services are allowed as exceptions.

Charter service is transportation provided by a recipient *at the request of a third party* for the *exclusive use* of a bus or van for a *negotiated price*.

KEY CONCEPTS

- FTA Prohibition Against
- Exemptions
- Exceptions
- Charter Registration Website
- Oversight of Subrecipients
- Quarterly Reporting to FTA

IMPORTANCE FOR STATE DOT STAFF

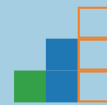
The FTA defines public transportation as regular and continuing shared-ride surface transportation services that are open to the general public or a segment of the general public defined by age, disability, or low income. As with other service types (like intercity bus and school bus), the definition specifically excludes charter bus service.

As a recipient of FTA funds, the state must ensure that it and its subrecipients comply with the prohibition against charter service. If FTA determines that the recipient has engaged in a pattern of violations, it may withhold funding or bar the recipient from receiving funding in the future.

To ensure subrecipient compliance,

- States should educate subrecipients on the charter prohibitions and be able to answer

Module 2.24: Charter Bus



questions on what a subrecipient needs to do to comply with FTA requirements.

- States must include the FTA-required charter bus clause in its subrecipient grant agreements.
- When reviewing subrecipient grant applications and providing service planning technical assistance, states should review descriptions of FTA-funded service and FTA-funded vehicle usage for potential situations when the charter prohibitions may come into play. If found, the state should examine these services more closely (requesting additional information from the subrecipient as needed), and advise subrecipients of potential violations of charter service.
- As part of compliance reviews of subrecipients conducted by the state, states should review the subrecipient's documentation of any charter service provided under the six allowable exceptions, and subrecipient contracts for operations/management to ensure the required charter service clause is included in the contract.
- States must submit quarterly reports on the FTA Charter website on all charter services provided under the exceptions by subrecipients. To do this, states must collect reports at least quarterly from its subrecipients.
- States should investigate any complaints they receive regarding potential violations of charter service prohibitions by a subrecipient.

DEFINITIONS

Charter Service: transportation at the request of a third party for the exclusive use of a bus or van for a negotiated price; or transportation to the public for events/functions that occur on an irregular basis or for a limited duration (when the service is paid for by a third party or a premium fare is charged). Charter service does not include demand response service for individuals.

The definition of charter service does not include demand response service, as demand response meets the needs of individuals as opposed to the needs of a group. Even trips carrying a group of individuals may not meet the charter service definition. For example, daily or weekly subscription trips for individuals with disabilities between a living facility and a recreation site are not considered charter service- these trips are regular and continuous special transportation. *(Source: Federal Register, Volume 74, Number 41 (Wednesday, March 4, 2009), "National Transit Database: Policy on Reporting of Coordinated Human Services Transportation Data," p. 9472).*

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Charter Service Exceptions: certain community-based charter services that may be provided if the grantee complies with required procedures and maintains required documentation.

Charter Service Exemptions: certain charter-like services that are always exempt from the charter service prohibitions, and require no special permission, recordkeeping, or reporting. Exemptions are not considered charter service.

Charter Service Hours: total hours operated by buses or vans while in charter service including: 1) hours operated while carrying passengers for hire, plus 2) associated deadhead hours.

Qualified Human Service Organization (QHSO): an organization that serves persons who qualify for human service or transportation-related programs or services due to disability, income, or advanced age.

Registered charter provider: a private charter operator that has registered on FTA's Charter Registration Web site and therefore receives notices of charter service requests.

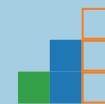
DETAILS ON FTA REQUIREMENTS

Except under limited exceptions and exemptions, recipients are prohibited from using federally funded equipment and facilities to provide charter services. Recipients of federal transit funding must enter into the **Charter Service Agreement**. It states:

"The recipient agrees that it, and each of its subrecipients, and third party contractors at any level who use FTA-funded vehicles, may provide charter service using equipment or facilities acquired with federal assistance authorized under the Federal Transit Laws only in compliance with the regulations set out in 49 CFR 604, the terms and conditions of which are incorporated herein by reference."

Though no longer delineated in a separate section of 49 CFR 604, there are six **exemptions** to the charter service prohibition. Unlike the **exceptions** described later, the exemptions do not require any type of record keeping because they are not technically charter service. The exemptions apply to:

Module 2.24: Charter Bus



1. A recipient transporting its employees or other transit/government officials or contractors to/from transit facilities or projects within its service area to conduct oversight functions (e.g. inspections).
2. Private charter operators that receive federal funding under S. 3038, 5307, 5309, 5310, 5311, or the former S. 5316 or 5317, and provide charter service for program purposes under contract with a public transit agency. *[Several of these programs were repealed or consolidated under MAP-21. See the additional exemptions below for more details.]*
3. A recipient transporting its employees or other transit/government officials or contractors for emergency preparedness planning and operations.
4. Recipients that receive federal funding under S. 5310, 5311, or the former S. 5316 or 5317, and provide charter service for program purposes only (i.e., serving targeted populations such as seniors and people with disabilities under S. 5310).
5. A recipient responding to a declared emergency (or taking immediate actions prior to a formal declaration).
6. A recipient in a non-urbanized area transporting its employees, other transit system employees, transit management officials, and transit contractors and bidders to/from transit training outside its service area.

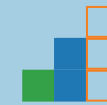
In addition to the six exemptions above, Section 32 the FTA Master Agreement outlines three additional circumstances in which the regulations to not apply, in light of MAP-21:

1. Equipment or facilities funded through the amended Section 5307, to support activities that would have been eligible under S. 5316 (the repealed JARC program) (e.g., employment transportation for low income individuals).
2. Equipment or facilities funded through the amended Section 5310, to support activities that would have been eligible under S. 5317 (the repealed New Freedom program) (i.e., transportation for people with disabilities that goes beyond what is mandated under ADA).
3. A recipient providing private intercity or charter transportation operators reasonable access to its federally funded public transportation facilities (e.g. park and ride lots) [49 USC 5323(r)].

There are also six **exceptions** to the charter service prohibition. The six exceptions in which recipients may provide community-based charter services (contingent on specific reporting requirements and, in some cases, hourly restrictions) are:

1. **Charter service for government officials on official government business** (limited to 80 charter service hours annually).

Module 2.24: Charter Bus

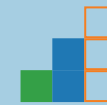


The recipient must provide the service in its service area, must not generate revenue from the service, and must document details of the service including the government organization's contact information, date, time, number of passengers, trip origin, destination, and length, fees collected, and vehicle number.

- 2. Charter service for qualified human service organizations (QHSOs)** for the purpose of serving persons with age-related mobility limitations, disabilities, or low incomes. If the QHSO does not receive federal funding (see 49 CFR 604, Appendix A for a program list), the QHSO must register on the FTA Charter Registration Website. As with government officials, the recipient must document the details of the service for the QHSO.
- 3. When leasing FTA funded equipment and drivers** to private charter operators that are registered on the FTA Charter Registration Website. The charter provider must have exceeded its available capacity of vehicles/accessible vehicles and have exhausted all of the available vehicles of all other registered charter providers in the area. The recipient is responsible for recording the details of the transaction.
- 4. When no registered charter provider responds to notice from the recipient**, either within 72 hours or 14 calendar days, depending on the date the service is to be provided. The recipient uses the Charter Registration Website to generate a list of e-mail addresses for the notice, and must subsequently document the details of the service.
- 5. When the recipient has entered into an agreement with all registered charter providers** in the geographic service area. Parties to the agreement may cancel with 90-day notice. The recipient has 90 days to engage newly registered providers; if no agreement is reached in that time the exception no longer applies.
- 6. When the recipient petitions the Administrator** (see 49 CFR 604.11 for exact petition requirements). Valid reasons include: (1) Events of regional or national significance; (2) Hardship (only for areas with a pop. of <200,000); or (3) Unique and time sensitive events (e.g., funerals) in the public's interest.

For Exceptions #1-4, the recipient must post a quarterly electronic report on the FTA Charter Registration Website (30 days after the end of each calendar quarter). States are required to submit these reports for their subrecipients, and therefore states need to

Module 2.24: Charter Bus



collect such reports from their subrecipients. No particular format is required, but the report is generally a single spreadsheet with three sections (listing all the trips occurring during the quarter):

Section 1- filled out for all exceptions (*exception codes are GO for government officials, QH for qualified human service organizations, LE for leasing, and WN for no response to notice*).

Charter Service Exceptions at a Glance:

1. For government officials on official government business
2. For qualified human service organizations
3. Leases of FTA funded equipment and drivers to registered private charter operators
4. When no registered charter provider responds to notice
5. When the recipient has an agreement with all registered charter providers in the area
6. When the recipient petitions the Administrator with a valid reason

Exception	Name	Address	Phone #	Email
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Section 2- filled out for GO, QH, and WN exceptions only.

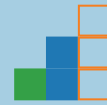
Date of Service	Start Time of Service	# of Passengers	Trip Origination	Trip Destination	Trip Duration (hours)	Fee Collected (per capita or total)	Vehicle #s
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Section 3- filled out for LE exception only.

# of Vehicles	Supporting Documentation (Document Title)
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The recipient must maintain the report (and notice, in the case of Exception #4) in an electronic format for three years. Quarterly reporting is publically accessible here: [http://ftateamweb.fta.dot.gov/Teamweb/\(S\(mqzusd55rv2hqw45tr5otkmo\)\)/CharterRegistration/QueryCharterReport.aspx](http://ftateamweb.fta.dot.gov/Teamweb/(S(mqzusd55rv2hqw45tr5otkmo))/CharterRegistration/QueryCharterReport.aspx).

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FTA's Charter Registration Website

<http://ftawebprod.fta.dot.gov/CharterRegistration/splash-charterregistration.aspx>

The Charter Registration Website has several functions. Interested parties are able to:

- Submit new private charter operator and QHSO registrations
- Search existing private charter operator and QHSO registrations
- Access Quarterly Reports through TEAM

By providing the required information on the Charter Registration Website (and updating the information at least every two years), private charter operators become registered charter providers. They then receive notice of charter requests and have standing to file complaints. Similarly, QHSOs that do not receive federal funding under a qualifying program (see 49 CFR 604, Appendix A) and who wish to provide or receive charter services must also register.

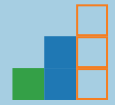
Recipients use the Charter Registration Website to issue an e-mail notice to the registered charter providers as allowed under Exception #4. The notice must be sent by COB on the day the recipient receives the request (or COB of the next day if the request is after 2PM). The email must include relevant details of the requested service [see 49 CFR 604.14 for exact requirements], and must be faxed if the email is undeliverable. The recipient must keep an electronic copy of the email notice for three years.

As recipients, states must ensure that their subrecipients only provide charter service in accordance with the charter regulations. States must also file the quarterly reports for themselves and their subrecipients (if the subrecipients do not have access to TEAM).

SUPPLEMENTAL NOTES

- Subpart E of 49 CFR 604 details the process in which interested parties can request an advisory opinion and/or a cease and desist order regarding potential charter service violations by recipients. Subpart F describes the requirements for filing

Module 2.24: Charter Bus



complaints, either about a registration on the Charter Registration Website or about the provision of charter service by a recipient. Subparts G through K describe the investigation, hearing, and appeals process.

- For additional information on the statutory and regulatory history of charter service, see the *Federal Register*, January 14, 2008, “Charter Service” Final Rule. The *Federal Register*, August 1, 2008, “Charter Service” Final Rule also includes an extensive question and answer section in Appendix C (updated from the January Final Rule).
- When contracting for operations and/or management services, recipients and subrecipients must include a charter service clause in the contract.

TIPS ON RELATIONSHIPS TO OTHER MODULES

- Targeted populations and services for each FTA grant are described in the Introduction to FTA Grants module.
- A charter bus clause is required in any procurements for transit operations or management (see the Procurement Policies, Process, and History module for more details on contract clause requirements).

LINKS/INFO

- 49 CFR 604, Charter Service (Final Rule: January 14, 2008; August 1, 2008). <http://www.ecfr.gov>.
- 49 USC Part 5323(d).
- FTA Charter Bus Service Website. www.fta.dot.gov/legislation_law/12922.html.
- FTA Charter Registration Website. <http://ftawebprod.fta.dot.gov/CharterRegistration/Default.aspx?p=%2fCharterRegistration%2f>.

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- FTA Master Agreement Section 32. <http://www.fta.dot.gov/documents/19-Master.pdf>.
- Section 5311 Charter Service Identification Flow Chart. www.fta.dot.gov/documents/Flow_Chart.pdf.

QUIZ

1) If a recipient or subrecipient provides service for the exclusive use of a bus or van to a third party free of charge, this qualifies as charter service.

1) True. 2) False.

2) Which of the following is NOT a possible feature of charter service?

- A. A third party pays a transit provider an in-kind payment for service, such as a new bus shelter
- B. A third party collects the fares charged to individual members of a group
- C. A transit provider offers the service on a regular schedule
- D. A third party determines the origin and destination of the trip as well as scheduling

1) A. 2) B. 3) C. 4) D.

Module 2.24: Charter Bus



3) Which of the following are examples of exceptions to the charter service prohibition?

- A. Providing service for city council and business officials touring a new stadium in the recipient's service area for up to 80 hours in a year
- B. Providing service to transit employees for the transit agency's annual picnic
- C. Providing seasonal service (e.g. to beaches or ski areas) for the public on a regular schedule that is consistent from year to year

1) A. 2) B. 3) C. 4) A & B.

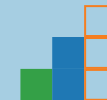
4) A new private charter provider outside of the recipient's geographic service area registers on the Charter Registration Website. If the recipient wants to pursue a request for charter service, it must:

- A. Provide notice to the new provider (as well as others) within 72 hours or 14 calendar days
- B. Secure an agreement with the new provider regarding the service within 90 days

1) A. 2) B. 3) A & B. 4) Neither A nor B.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 2.25: School Bus



INTRODUCTION

Recipients of federal funds may not engage in school bus operations exclusively for the transportation of students or school personnel in competition with private school bus operators. First included in the 1973 Federal-Aid Highway Act, Congress intended to protect private school bus operators that could be unfairly displaced by federally funded transit systems. The statute and regulation governing school bus transportation are 1) 49 USC 5323 and 2) 49 CFR Part 605.

IMPORTANCE FOR STATE DOT STAFF

The FTA defines public transportation as regular and continuing shared-ride surface transportation services that are open to the general public or a segment of the general public defined by age, disability, or low income. Among other service types (like intercity bus and charter bus), the definition specifically excludes school bus service. This requirement applies to exclusive bus service to public and private schools.

As a recipient of FTA funds, the state must ensure that it and its subrecipients comply with the prohibition against exclusive school bus service. If the FTA determines that the recipient has violated the school bus agreement, it may bar the recipient from receiving transit funding in the future.

KEY CONCEPTS

- FTA Prohibition
- Oversight of Subrecipients

To ensure subrecipient compliance,

- States should educate subrecipients on the FTA school bus restrictions and be able to answer questions on what a subrecipient needs to do to comply with FTA requirements.
- States must include the FTA-required school bus clause in its subrecipient grant agreements.

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- When reviewing subrecipient grant applications and providing service planning technical assistance, states should review descriptions of FTA-funded service and FTA-funded vehicle usage for potential school bus service. If found, the state should examine these services more closely (requesting additional information from the subrecipient as needed), and advise subrecipients of potential violations of school service restrictions.
- As part of compliance reviews of subrecipients conducted by the state, states should review school bus notice or certification in lieu of notice, the subrecipient’s published schedules to ensure “tripper service” is published, and subrecipient contracts for operations/management to ensure the required school bus clause is included in the contract.
- States should investigate any complaints they receive regarding potential violations of school bus prohibitions by a subrecipient.

DEFINITIONS

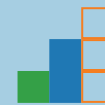
Adequate Transportation: transportation for students and school personnel that conforms to applicable safety laws; is on time; poses a minimum of discipline problems; is not subject to fluctuating rates; and is operated efficiently and in harmony with state educational goals and programs.

Exclusively: service that a reasonable person would conclude was primarily designed to accommodate students and school personnel, and only incidentally to serve the nonstudent general public.

Incidental: the transportation of school students, personnel, and equipment in charter bus operations during off peak hours which does not interfere with regularly scheduled service to the public.

Reasonable Rates: rates found to be fair and equitable taking into consideration the local conditions which surround the area in question.

Module 2.25: School Bus



Trippler Service: regularly scheduled mass transportation service that is open to the public and is designed or modified to accommodate the needs of school students and personnel, using various fare collections or subsidy systems.

DETAILS ON FTA REQUIREMENTS

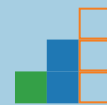
Recipients of federal transit funding are prohibited from operating exclusive school bus service. As a condition of funding, applicants must agree in writing that they will not engage in school bus operations exclusively for the transportation of students and school personnel, in competition with private school bus operators. Recipients can provide service to schools as part of their overall operations, as long as the schools are treated like any other origin or destination.

The following three exemptions apply to the school bus prohibition:

- 1) If the recipient also operates a separate and exclusive school bus program for a school system,
- 2) If private school bus operators in the area are unable to provide adequate transportation that complies with applicable safety standards at reasonable rates, or
- 3) If the recipient was engaged in school bus operations during a specified period in 1973 or 1974.

If the recipient is authorized to provide school bus service under one of the above exemptions, it must enter into a different written agreement stating that it will notify FTA of any changes that might impact the exemption. School bus service allowed under the exemptions may not involve federally funded buses, equipment, or facilities. In addition, the non-federally funded buses, equipment, and facilities must be used incidentally, not interfering with their use for general public service.

The prohibition against the use of federally funded buses, facilities, and equipment does not apply to school tripper service. Though designed or modified for students and school personnel, tripper service must “operate and look like all other regular service.” It may have modifications to its fare collection/subsidy systems, modifications to frequency, and/or minor modifications to its route paths. However, it must:



Module 2.25: School Bus

- Have regularly scheduled service that is open to the general public.
- Not have any special school designations that might deter the general public.
- Operate within the regular service area and stop only at regular bus stops (as published in route schedules).
- Have publicly available schedules (in the form of all other schedules- i.e. paper and/or online).

SUPPLEMENTAL NOTES

FTA has made several recent rulings regarding violations of the school bus regulations (http://web1.ctaa.org/webmodules/webarticles/articlefiles/DigitalCT_Spring13_School.pdf). In one case, the Bay Area Transportation Authority (BATA) in Suttons Bay, Michigan developed deviated fixed routes in response to a request from its school district. The FTA found that the routes' schedules and frequencies were significantly different than those of BATA's other operations (one way in the morning/returning in the afternoon, reduced in the summer, etc.), and that they lacked signage like the rest of the system. An adult (who happened to be a private investigator) was also reported as a suspicious person while riding one of the routes. BATA did not provide notice or certification, and did not ask FTA to issue an approval or disapproval.

Another example comes from Yankton, South Dakota. Like the Sutton Bay case, the Yankton school system was facing economic hardships and could no longer provide school transportation. Its local transit provider, Yankton Transit, set up a system with parents to take students to school. FTA found that the route had a different fare, and that non-students were prohibited from riding. In both Suttons Bay and Yankton, the National School Transportation Association (NSTA) investigated. The NSTA monitors school bus service throughout the country and files complaints with FTA regarding possible violations. In both cases, FTA issued a cease and desist order to the local transit providers.

FTA also issued a policy statement on school bus regulations in 2008, in response to the Rochester-Genesee Regional Transportation Authority (RGRTA) v. Hynes-Cherin U.S. District Court decision. In the case, the U.S. District Court found that 240 express school bus routes operated by RGRTA were not in violation of FTA's school bus regulations because the general public hypothetically could board them. FTA found that decision "problematic," as it undermined the intent of the regulation. In the policy statement, FTA clarified its definitions of tripper service and school bus operations, saying that both definitions stood as they had been historically interpreted. FTA felt that the U.S. District Court had too narrow a view of "exclusive" and too broad a view of "tripper service."

Module 2.25: School Bus



TIPS ON RELATIONSHIPS TO OTHER MODULES

49 CFR Part 605.12 notes that recipients may use federally funded buses, facilities, and equipment for the transportation of school students during incidental charter bus operations. See the Charter Bus module for more details on what constitutes incidental charter bus operations and when they are allowable.

When contracting for operations and/or management services, recipients and subrecipients must include a charter service clause in the contract.

LINKS/INFO

- 49 CFR 605, School Bus Operations. <http://www.ecfr.gov>.
- FTA Master Agreement Section 33. <http://www.fta.dot.gov/documents/19-Master.pdf>.
- Final Policy Statement on FTA's School Bus Operations Regulations. September 16, 2008. <http://www.gpo.gov/fdsys/pkg/FR-2008-09-16/html/E8-21601.htm>.



QUIZ

1) Under what circumstances would a recipient be exempt from the school bus regulations?

- A. The recipient is authorized to operate a separate/exclusive school bus program for a school system.
- B. The recipient operates tripper service.
- C. The recipient operates in a non-urbanized area.

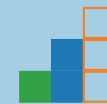
1) A & B. 2) A & C. 3) B & C.

2) When operating tripper service, a recipient may:

- A. Use a different fare collection system.
- B. Make minor route alterations in close proximity to schools.
- C. Designate the service as a school route on the vehicle or on the transit system's website.

1) A & B. 2) B & C. 3) A & C.

Module 2.25: School Bus



QUIZ

3) Recipients providing school service under one of the statutory exemptions may use FTA funded buses, equipment, and facilities for that service.

1) True. 2) False.

4) If no private school bus operators exist in a recipient's area, the recipient is automatically authorized to provide school bus service.

1) True. 2) False.

The Quiz Answer Key can be found at the end of the Introductory Materials section of the curriculum.

Module 3.1: Grant Administration



ADVANCED COURSES AND IN-DEPTH RESOURCES

FTA Region Training

Some FTA Regional Offices offer guidance and/or training for their recipients. Examples include:

- Region IV State Programs Team “FTA University” classroom training provided at FTA regional meetings approximately every 2 years. An online slide show is available here:
http://www.fta.dot.gov/documents/FTA_ALDODT_GDOT_Training_April_2012_FINAL.pdf
- Region IV webinars, including recorded webinars on TEAM, Grant Development, and Program Management
http://www.fta.dot.gov/region4_12240.html

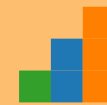
Other FTA Guidance

FTA C 5010.1D - “Grant Management Requirements”
http://www.fta.dot.gov/legislation_law/12349_8640.html

FTA Funding Program Circulars
<http://www.fta.dot.gov/13716.html>

FTA TEAM-Web Users Guide
<http://ftateamweb.fta.dot.gov/static/userguide.html>

Module 3.1: Grant Administration



FTA TrAMS Guidance

Check www.fta.dot.gov for forthcoming user guidance for TrAMS, FTA's new web-based Transportation Transit Award and Management system, which is anticipated to replace TEAM beginning in FY 2015.

Rural NTD Reporting Information

<http://www.ntdprogram.gov/ntdprogram/rural.htm>

NTI Rural NTD Reporting Webinar - not currently offered, but check <http://www.ntionline.com/courses/list.php> for future NTI offerings related to Rural NTD.



ADVANCED COURSES AND IN-DEPTH RESOURCES

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- Region IV webinars, including recorded webinars on TEAM, Grant Development, and Program Management
http://www.fta.dot.gov/region4_12240.html

FTA Financial Management Oversight Workshop
<http://www.fta.dot.gov/grants/12899.html>

- FTA Financial Management Oversight Workshop FY 2013 Powerpoint
www.fta.dot.gov/images/content_images/FTA_FMO_Format_3-18-13.pptx

Other Courses

- Fundamental Financial Management Training for Rural and Small Urban Public Transit Providers, MTAP Course
<http://scopt.transportation.org/Pages/FundamentalsOfPublicTransportation.aspx>

Module 3.2: Financial Management



- Financial Management for Transit Operators, SURTC/NDSU Training-on-Demand Workshop
www.surtc.org/training/topics.php?id=4
- Financial Planning in Transportation, NTI Course
<http://www.ntionline.com/courses/courseinfo.php?id=83>

Other Guidance and Resources

- FTA C 5010.1D - “Grant Management Requirements”
http://www.fta.dot.gov/legislation_law/12349_8640.html
- FTA TEAM-Web Users Guide
<http://ftateamweb.fta.dot.gov/static/userguide.html>
- FTA TrAMS Guidance
Check www.fta.dot.gov for forthcoming user guidance for TrAMS, FTA’s new web-based Transportation Transit Award and Management system, which is anticipated to replace TEAM beginning in FY 2015.
- Fundamental Financial Management for Rural and Small Urban Public Transit Providers, MTAP/National RTAP Training Guide
<http://demopro.nationalrtap.org/emailResource.aspx?design=1&fileid=191>

Also see recommendations for core skills training on financial management in the Core Skills and Recruiting module.

Module 3.3: Project Management and Grantee Oversight



ADVANCED COURSES AND IN-DEPTH RESOURCES

Subrecipient Oversight - S.5307/5339

- Triennial Review Workshop. <http://www.fta.dot.gov/grants/12897.html>
- Triennial Review Workshop Workbook. <http://www.fta.dot.gov/grants/12897.html>

Subrecipient Oversight - Other FTA Programs

- FTA State Management Review Workshop. http://www.fta.dot.gov/grants/12310_8461.html
- State Management Review Workshop Workbook. http://www.fta.dot.gov/grants/12310_8461.html
- NCHRP Research Results Digest 341: Compliancy Monitoring Tools. <http://www.trb.org/Publications/Blurbs/163185.aspx>

Project Management

- NTI Project Management for Transit Professional. <http://www.ntionline.com/courses/courseinfo.php?id=42>
- FTA Project Management Oversight Guidance Resources. <http://www.fta.dot.gov/grants/13923.html>
- FTA Quality Management System Guidelines (2012 Update)
- FTA Project and Construction Management Guidelines (2011 update)
- Construction Project Management Handbook (March 2012)



ADVANCED COURSES AND IN-DEPTH RESOURCES

NTI courses recommended for state transit program managers with SUBRECIPIENT OVERSIGHT RESPONSIBILITIES:

Procurement for Small and Medium Transit Systems

<http://www.ntionline.com/courses/courseinfo.php?id=209>

Length: 2 days. Geared toward small and medium transit system administrative staff involved with procurement, state agency representatives, and FTA regional staff. Limited to transit agencies that are recipients of S. 5307 (less than 50 vehicles), S. 5310 or S. 5311 funds.

- Highlights FTA procurement requirements
- Examines the procurement processes
- Provides an overview of best procurement practice in light of FTA requirements

Bus Procurement Workshop

<http://www.ntionline.com/courses/courseinfo.php?id=23>

Length: 2 days. Target audience: procurement managers, project managers who work on bus procurements

- Highlights FTA procurement requirements
- Examines bus procurement processes
- Reviews the 2011 APTA Standard Bus Procurement Guidelines document
- Provides opportunities for dialog between manufacturers and agencies



NTI courses recommended for state transit staff RESPONSIBLE FOR STATE PROCUREMENTS:

Procurement Series - I - Orientation to Transit Procurement

<http://www.ntionline.com/courses/courseinfo.php?id=21>

Length: 3.5 days. First of a four-part series, intended for those currently engaged in procurement for federal-funded transit agencies, contract administrators, project managers, procurement and contracting personnel wishing to improve their skills, transit suppliers, and FTA regional staff who review third-party contracting. Covers:

- Procurement “Best Practices”
- Teaming and Partnering
- Organization of the Procurement Function
- Functions and Principles of Procurement
- Acquisition Planning
- Option Year, Piggy-backing, and Cross-Border Leasing
- Writing Specifications and Statements of Work
- General Contract Provisions
- Procurement Integrity
- Debriefing and Protests
- FTA’s Role in the Procurement Process

Procurement Series - II - Risk Assessment and Basic Cost or Price Analysis

<http://www.ntionline.com/courses/courseinfo.php?id=18>

Length: 3.5 days. Second of a four-part series. Covers:

- Price or Cost Analysis
- Effect of Price or Cost Analysis on Types of Contracts
- Contract Modifications
- Determination of Fair and Reasonable Price
- Methods of Conducting Cost Comparison
- Role Risk Plays in Pricing
- Effect of Contract Type on Allocation of Risk
- Effect of Specification Type on Risk Allocation
- FTA’s Role in the Procurement Process

Module 3.4: Procurement



Procurement Series - III - RFPs and Competitive Contract Negotiations

<http://www.ntionline.com/courses/courseinfo.php?id=16>

Length: 3 days. Third of four-part series. Covers:

- Acquisition Planning and Strategy
- Competitive Proposal Negotiations
- Non-Competitive and Emergency Contract Negotiations
- Negotiating Architectural/Engineering Service
- Contracts
- Other Negotiated Procurement Methods
- Negotiation Skills
- Concessions

Procurement Series - IV - Contract Administration

<http://www.ntionline.com/courses/courseinfo.php?id=22>

Length: 3.5 days. Fourth of four-part series. Covers:

- The Contracting Environment
- The Contract Administration Team
- Proactive Contract Administration
- Managing Contractor-Agency Communication
- The Influence of Pre-award Activity on Contract
- Administration
- Modifying or Changing the Contract
- Contractual Remedies Addressing Performance Issues
- Resolution of Disputes
- Contract Closeout

Disadvantaged Business Enterprise Course

<http://www.ntionline.com/courses/courseinfo.php?id=9>

Length: 3 days. Includes:

- Federal requirements regarding DBEs
- Setting annual DBE goals
- Accounting for and reporting DBE participation
- Certification of DBEs
- Agency specific DBE requirements
- FTA's role in the DBE process
- Disputes and appeals under the DBE requirements



In-Depth Resources

49 CFR Part 18 Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, § 18.36 Procurement

http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr18_main_02.tpl

FTA C 4220.1F - "Third Party Contracting Guidance" Circular

http://www.fta.dot.gov/legislation_law/12349_8641.html

FTA Procurement System Self-Assessment Guide

http://www.fta.dot.gov/12831_6326.html

FTA FY2013 Procurement System Review Workshop Workbook

http://www.fta.dot.gov/grants/12900_14157.html

Check for updated workbooks on <http://www.fta.dot.gov/grants/12900.html>

FTA Best Practices Procurement Manual

http://www.fta.dot.gov/grants/13054_6037.html

Last updated in October 2005; until the next update, this manual should not be regarded as representing current FTA regulations but nonetheless provides useful practices and guidance.

APTA Standards Recommended Practice - The Process of Transit Procurement (March 2013)

<http://www.apta.com/resources/standards/Documents/APTA-PS-PP-RP-007-13.pdf>

This recommended practice describes a process for a typical procurement from inception through contract close out and warranty. The major steps in that process are: identify and explore the need; evaluate options and establish need for procurement; select procurement method; develop final solicitation; execute solicitation; and contract administration.



APTA Standard Bus Procurement Guidelines RFP (May 2013)

<http://www.apta.com/resources/standards/Documents/APTA%20Bus%20Procurement%20Guidelines.pdf>

This document outlines a request for proposals for a negotiated bus procurement contract. A request for proposals is generally used when the scope of work or specification is less well-defined. In addition, this type of procurement may be used in cases where the vehicle involves “emerging” technology or there is a requirement to discuss warranty provisions or design considerations.

APTA Standards Recommended Practice - In-Plant Inspection for Bus Procurements (March 2011)

<http://www.apta.com/resources/standards/Documents/APTA-BTS-II-RP-001-11.pdf>

This recommended practice establishes recommended minimum bus inspection requirements for new bus inspections and details what specific documentation is required during the bus procurement and manufacturing phase.

APTA Standards Technology Terms and Conditions (June 2011)

<http://www.apta.com/resources/standards/Documents/APTA-PS-TP-WP-001-11.pdf>

This document discusses the risks and benefits of technology-related terms and conditions which can be included in IT procurement contracts.

National RTAP ProcurementPRO

<http://webbuilder.nationalrtap.org/WebApps/ProcurementPRO.aspx>

This web-based application guides rural and Tribal grantees and state DOTs through FTA procurement procedures. Using basic project information entered by the user, the program provides the required Federal clauses and certifications that must be included in procurement documents. Checklists, guidance, and a template for the procurement file are also provided.

Module 3.5: State and Metropolitan Planning



ADVANCED COURSES AND IN-DEPTH RESOURCES

State and Metropolitan Planning

- Introduction to Statewide Transportation Planning, NTI
<http://www.ntionline.com/courses/courseinfo.php?id=78>
- Introduction to Metropolitan Transportation Planning, NTI
<http://www.ntionline.com/courses/courseinfo.php?id=85>
- State and Metropolitan Transportation Programming, NTI
<http://www.ntionline.com/courses/courseinfo.php?id=77>
- State and Metropolitan Transportation Programming (Online), NTI
<http://www.ntionline.com/courses/courseinfo.php?id=218>
- FTA Circular 8100.1C, Program Guidance for Metropolitan Planning and State Planning and Research Program Grants
http://www.fta.dot.gov/legislation_law/12349.html.

Public Involvement in Planning

- Public Involvement in Transportation Decision-making, NTI
<http://www.ntionline.com/courses/courseinfo.php?id=86>

Module 3.5: State and Metropolitan Planning



- Environmental Justice and Public Participation, SURTC / NDSU “training on demand” workshop
<http://www.surtc.org/training/topics.php?id=28>
- Limited English Proficiency, SURTC / NDSU “training on demand” workshop
<http://www.surtc.org/training/topics.php?id=29>

Environmental Planning

- Environmental Impact Assessment Part A: NEPA as a Decision-Making Tool in Planning, NTI / Rutgers Online
<http://www.ntionline.com/courses/courseinfo.php?id=89>
- Environmental Impact Assessment Part B: The Environmental Impact Statement and Related Topics, NTI / Rutgers Online
<http://www.ntionline.com/courses/courseinfo.php?id=87>
- Introduction to Transportation Conformity, NTI
<http://www.ntionline.com/courses/courseinfo.php?id=84>
- Environmental Justice and Public Participation, SURTC / NDSU “training on demand” workshop
<http://www.surtc.org/training/topics.php?id=28>

Module 3.6: Local Planning



ADVANCED COURSES AND IN-DEPTH RESOURCES

Specialized Transportation Coordination Planning

- Managing Community Mobility, NTI. <http://www.ntionline.com/courses/courseinfo.php?id=44>
- SURTC, NDSU's Transit Coordination: Finding Coordination Partners and Breaking Down Barriers "Training on Demand" workshop. <http://www.surtc.org/training/topics.php?id=5>
- *TCRP Report 105: Strategies to Increase Coordination of Transportation Services for the Transportation Disadvantaged.* http://www.tcrponline.org/PDFDocuments/TCRP_RPT_105.pdf
- *NCHRP Research Results Digest 331: Preparing Coordinated Transportation Plans: A Guidebook for State Departments of Transportation.* http://www.tcrponline.org/PDFDocuments/NCHRP_RRD_331.pdf
- *TCRP Report 101: Toolkit for Rural Community Coordinated Transportation Services.* http://www.tcrponline.org/PDFDocuments/TCRP_RPT_101.pdf

Transit Service Planning

- Introduction to Transit Service Planning, NTI. <http://www.ntionline.com/courses/courseinfo.php?id=223>
- BRT Workshop, NTI. <http://ntionline.com/courses/courseinfo.php?id=215>

Module 3.6: Local Planning



TCRP Resources - The following resources can be ordered or downloaded through www.tcrponline.org:

- *TCRP Report 70: Guidebook for Change and Innovation at Rural and Small Urban Transit Systems*
- *TCRP Report 101: Toolkit for Rural Community Coordinated Transportation Services*
- *TCRP Report 116: Guidebook for Evaluating, Selecting, and Implementing Suburban Transit Services*
- *TCRP Report 140: A Guide for Planning and Operating Flexible Public Transportation Services*
- *TCRP Report 147: Toolkit for Estimating Demand for Rural Intercity Bus Services*
- *TCRP Report 161: Methods for Forecasting Demand and Quantifying Need for Rural Passenger Transportation: Final Workbook*

Transit Performance Evaluation

- Transit Dollars and Sense: Sound Fiscal Management Using Performance Measures, SURTC / NDSU “training on demand” workshop. <http://www.surtc.org/training/topics.php?id=25>

TCRP Resources - The following resources can be ordered or downloaded through www.tcrponline.org:

- *TCRP Report 136: Guidebook for Rural Demand-Response Transportation: Measuring, Assessing, and Improving Performance*
- *TCRP Report 165: Transit Capacity and Quality of Service Manual, 3rd Edition*
- *TCRP Report 88: A Guidebook for Developing a Transit Performance-Measurement System*
- *TCRP Research Results Digest 56: A Summary of TCRP Report 88: A Guidebook for Developing a Transit Performance-Measurement System*
- *TCRP Report 6: Users’ Manual for Assessing Service-Delivery Systems for Rural Passenger Transportation*

Module 3.6: Local Planning



Land Use Planning

- Transit-Oriented Development, NTI. <http://www.ntionline.com/courses/courseinfo.php?id=82>
- Transportation and Land Use, NTI. <http://www.ntionline.com/courses/courseinfo.php?id=72>

ITS Project/Technology Planning

- Implementing Rural Transit Technology, NTI. <http://www.ntionline.com/courses/courseinfo.php?id=63>
- Systems Engineering for Technology Projects, NTI. <http://www.ntionline.com/courses/courseinfo.php?id=67>
- Using Regional ITS Architecture(s), NTI. <http://www.ntionline.com/courses/courseinfo.php?id=68>
- Transit ITS Workshop, NTI. <http://www.ntionline.com/courses/courseinfo.php?id=66>
- Geographic Information Systems in Transit, UMW. <http://www4.uwm.edu/sce/course.cfm?id=5141>

Module 3.7: Public Participation



ADVANCED COURSES AND IN-DEPTH RESOURCES

- Public Involvement in Transportation Decision-making, NTI
<http://www.ntionline.com/courses/courseinfo.php?id=86>
- Public Involvement Techniques for Transportation Decision-Making, FHWA
http://www.fhwa.dot.gov/planning/public_involvement/publications/techniques/
- Environmental Justice and Public Participation, SURTC / NDSU “training on demand” workshop
<http://www.surtc.org/training/topics.php?id=28>
- Limited English Proficiency, SURTC / NDSU “training on demand” workshop
<http://www.surtc.org/training/topics.php?id=29>

Module 3.8: Asset Management



ADVANCED COURSES AND IN-DEPTH RESOURCES

- Introduction to Transit Asset Management, NTI archived webinar
<http://ntionline.com/courses/courseinfo.php?id=240>
- Transit Asset Management Principles for Small Systems, NTI archived webinar
<http://www.ntionline.com/courses/courseinfo.php?id=250>
- Transit Asset Management Principles for Large Bus/Paratransit Systems Webinar, NTI archived webinar
<http://ntionline.com/courses/courseinfo.php?id=251>
- Monitoring and Managing Your Maintenance Program, SURTC / NDSU “training on demand” workshop
<http://www.surtc.org/training/topics.php?id=15>
- Vehicle Maintenance Management and Inspection (VMMI) Certification Training, CTAA
<http://web1.ctaa.org/webmodules/webarticles/anmviewer.asp?a=37&z=116>

Module 3.9: Safety and Security



ADVANCED COURSES AND IN-DEPTH RESOURCES

- Certified Safety and Security Officer (CSSO) Certification Training, CTAA
<http://web1.ctaa.org/webmodules/webarticles/anmviewer.asp?a=41&z=116>
- Safety, Security and Emergency Management, SURTC / NDSU “training on demand” workshop
<http://www.surtc.org/training/topics.php?id=30>
- TSI Courses related to Transit Safety and Security
<http://www.tsi.dot.gov/Transit.aspx>
- NTI Courses related to Workplace Safety and Security
http://ntionline.com/courses/list.php?program_id=5
- FTA Safety & Security Publications
<http://www.fta.dot.gov/TSO/12537.html>

Module 3.10: Equal Employment Opportunity (EEO)



ADVANCED COURSES AND IN-DEPTH RESOURCES

- FTA Circular 4704.1 - Equal Employment Opportunity
http://www.fta.dot.gov/legislation_law/12349_5951.html
- FTA Civil Rights Training Materials
<http://www.fta.dot.gov/civilrights/12885.html>
- The department or office in your state government responsible for EEO in state employment

Module 3.11: Drug and Alcohol Testing



ADVANCED COURSES AND IN-DEPTH RESOURCES

- FTA Drug and Alcohol Training. <http://transit-safety.fta.dot.gov/DrugAndAlcohol/Training/Default.aspx>
- FTA Substance Abuse Training Sessions. <http://transit-safety.fta.dot.gov/Training/new/CourseDetails.aspx?csid=50>
- Annual FTA Drug and Alcohol Program National Conference - register for the next conference and find presentations from the previous conference through the FTA website. <http://transit-safety.fta.dot.gov/DrugAndAlcohol/>
- FTA Drug and Alcohol Regulation Updates Newsletter. <http://transit-safety.fta.dot.gov/DrugAndAlcohol/Newsletters/Topics.aspx>
- FTA Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit. <http://transit-safety.fta.dot.gov/Publications/order/singledoc.asp?docid=61>
- FTA Drug and Alcohol Publications. <http://transit-safety.fta.dot.gov/Publications/order/default.asp>

Module 3.12: Americans with Disabilities Act (ADA)



ADVANCED COURSES AND IN-DEPTH RESOURCES

- Understanding ADA, NTI. <http://www.ntionline.com/courses/courseinfo.php?id=13>
- Paratransit Management & Operations Course, NTI. <http://ntionline.com/courses/courseinfo.php?id=12>
- Comprehensive ADA Paratransit Eligibility, NTI. <http://ntionline.com/courses/courseinfo.php?id=8>
- Easter Seals Project ACTION Training. <http://www.projectaction.org/Training.aspx>
(Includes an extensive archive of recorded and transcribed webinars)
- Easter Seals Project ACTION Publications. <http://www.projectaction.org/ResourcesPublications.aspx>
- FTA Civil Rights Training Materials. <http://www.fta.dot.gov/civilrights/12885.html>

Module 3.13: Title VI



ADVANCED COURSES AND IN-DEPTH RESOURCES

- FTA Circular 4702.1B - Title VI. http://www.fta.dot.gov/legislation_law/12349_14792.html
- FTA Circular 4703.1 - Environmental Justice. http://www.fta.dot.gov/legislation_law/12349_14740.html
- Civil Rights & Title VI – What It Means for Transit Managers & Supervisors, SURTC / NDSU “training on demand” workshop. <http://www.surtc.org/training/topics.php?id=27>
- Environmental Justice and Public Participation, SURTC / NDSU “training on demand” workshop. <http://www.surtc.org/training/topics.php?id=28>
- Limited English Proficiency, SURTC / NDSU “training on demand” workshop. <http://www.surtc.org/training/topics.php?id=29>
- *NCHRP Research Results Digest 340: State DOT Best Practices for Title VI Compliance*. http://www.trb.org/Publications/Blurbs/State_DOT_Best_Practices_for_Title_VI_Compliance_162789.aspx
- Reference Materials for State DOT Title VI Compliance: Appendices to NCHRP Research Results Digest 340. <http://www.trb.org/Publications/Blurbs/162790.aspx>
- FTA Civil Rights Training Materials. <http://www.fta.dot.gov/civilrights/12885.html>

Module 3.14: Training and Technical Assistance



ADVANCED COURSES AND IN-DEPTH RESOURCES

Train-the-Trainer Programs for State DOT Staff who Conduct Subrecipient Training

- NTI Annual Transit Trainers' Workshop. <http://www.ntionline.com/courses/courseinfo.php?id=176>
- National RTAP Modules with a Train-the-Trainer Component: <http://nationalrtap.org/>
 - Customer Driven Service
 - Emergency Procedures for Rural Transit Drivers
 - Essential Skills for Trainers
 - START Safety Training and Rural Transit
- CTAA Passenger Service and Safety (PASS) Trainer and Driver Certification. <http://web1.ctaa.org/webmodules/webarticles/anmviewer.asp?a=35&z=116>
- Transportation Safety Institute's Instructors Course in Bus/Paratransit Operator Training. <https://tsilearn.dot.gov/pages/course/portal.aspx?courseid=91>

Additional Training Resources Relevant for S. 5310, 5311, and Small Urban 5307 Subrecipients

- Numerous National RTAP Resources: <http://nationalrtap.org/>
- CTAA Certification courses: <http://web1.ctaa.org/webmodules/webarticles/anmviewer.asp?a=3054&z=116>

Module 3.14: Training and Technical Assistance



- Other CTAA training courses: <http://web1.ctaa.org/webmodules/webarticles//anmviewer.asp?a=3051&z=118>
- Small Urban and Rural Transit Center, NDSU: <http://www.surtc.org/training/>
- Easter Seals Project ACTION: <http://www.projectaction.org/>
- National Transit Institute: <http://ntionline.com/courses/list.php>

Appendix A: Existing Courses (and Major Resources of Potential Relevance) for New State DOT Staff Managing FTA Grant Programs

Multiple FTA Knowledge Area Groups

Knowledge Area(s)	Presented by	Course Name	URL	Format/Location/Frequency	Duration	Cost to State DOT employees	Comments
multi	CTAA	Certified Community Transit Manager (CCTM) test preparation course	http://web1.ctaa.org/webmodules/webarticles/anmvies/ver.asp?a=33&z=116	Classroom; offered annually at CTAA EXPO and at other sponsored locations (e.g., through State RTAP or transit association)	2 days	\$550-650 at 2012 CTAA EXPO (depending on registr. date)	Assumes participants have training and experience; refresher course to prepare for CCTM exam. Training Outline: <ol style="list-style-type: none"> <u>Human Resource Management</u>: 1. Personnel Policy, 2. Substance Abuse Program, 3. Performance Management, 4. Team Building, 5. Driver Training <u>Operation Management</u>: 1. ADA, 2. Maintenance Management, 3. System Safety, 4. Service Design, 5. Crisis Management <u>Procurement and Contracting</u>: 1. Dispute Resolution, 2. Bid Solicitation, 3. Service Contracting, 4. Vehicle Procurement, 5. Grant Management <u>Financial Management</u>: 1. Funding Resources, 2. Cash Management, 3. Risk Management, 4. Performance Measurement <u>Transit Development</u>: 1. Capital Improvement, 2. System Planning, 3. Marketing and Advocacy
multi	CTAA	Certified Community Transit Manager (CCTM) Examination Study Guide	http://www.surtc.org/cctm/	Written study guide - 5 sections	n.a.	Free	Assumes participants have training and experience; refresher resources for preparing for CCTM exam, includes: Section I. Transit Development Section II. Financial Management Section III. Operations Management Section IV. Human Resource Management Section V. Procurement and Contracting
multi	FTA	State Management Review Workshop	http://www.fta.dot.gov/grants/12310_8461.html	Classroom; periodically offered in each FTA region	2 days	Free	Intended for State DOT professionals who manage FTA funded programs or projects, or manage transit service or compliance programs. Covers compliance requirements and compliance review questions for 13 FTA areas: 1. Program Management, 2. Grant Administration, 3. Project Management, 4. Financial Management, 5. Procurement and DBE, 6. Asset Management, 7. Lobbying, 8. Charter Bus, 9. School Bus, 10. ADA, 11. Title VI, 12. Equal Employment Opportunity, 13. Drug and Alcohol/DFWA Programs

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
multi	FTA	State Management Review Workshop Workbook	http://www.fta.dot.gov/grants/12310_8461.html	146-page workbook	n.a.	Free	Detailed workbook with compliance questions and technical assistance (covered in workshop)
multi	FTA	Triennial Review Workshop	http://www.fta.dot.gov/grants/12897.html	Classroom; periodically offered in each FTA region	2 days	Free	Intended for recipients of Urbanized Area Formula Program funds. Covers compliance requirements and compliance review questions for 24 FTA areas: 1. Legal, 2. Financial, 3. Technical, 4. Satisfactory Continuing Control, 5. Maintenance, 6. Procurement, 7. Disadvantaged Business Enterprise, 8. Buy America, 9. Debarment and Suspension, 10. Lobbying, 11. Planning/ Program of Projects, 12. Title VI, 13. Public Comment on Fare and Service Changes, 14. Half Fare, 15. Americans with Disabilities Act, 16. Charter Bus, 17. School Bus, 18. National Transit Database, 19. Safety and Security, 20. Drug-Free Workplace, 21. Drug and Alcohol Program, 22. Equal Employment Opportunity, 23. ITS Architecture, 24. American Recovery and Reinvestment Act (ARRA)
multi	FTA	Triennial Review Workshop Workbook	http://www.fta.dot.gov/grants/12897.html	221-page workbook	n.a.	Free	Detailed workbook with compliance questions and technical assistance (covered in workshop)
multi	FTA Region IV	State Programs Team FTA Training (FTA 101 & FTA U)	http://www.fta.dot.gov/about/region4_8009.html	Classroom (FTA regional meeting) - offered approx. every 2 years (?)			A state transit director indicated this is excellent training; only drawback is that it is not offered frequently 138-page PowerPoint for "FTA 101" is online here: http://www.fta.dot.gov/documents/FTA_101_NCDOT_SCDOT_Training.pdf 191-page PowerPoint for "FTA U" is online here: http://www.fta.dot.gov/documents/FTA_ALDOT_GDOT_Training_April_2012_FINAL.pdf
multi	FTA Region IV	New Grantee Handbook	http://www.fta.dot.gov/documents/New_Grantee_Handbook_Update_Mar_2013_FINAL.pdf	35-page handbook plus appendices	n.a.	Free	Summary of documentation required to apply for a grant and demonstrate compliance with major FTA requirements. Links to appendices are found here: http://www.fta.dot.gov/region4_7507.html

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
multi	FTA Region 7	New Grantee Handbook	http://www.fta.dot.gov/images/photos/TRO-7/NEW_GRANTEE_HANDBOOK.pdf	8-page handbook	n.a.	Free	Checklist of documentation required to demonstrate compliance with major FTA requirements
multi	SURTC, NDSU	Principles of Transit Management	http://www.surtc.org/training/topics.php?id=1	workshop "training on demand"	3 days		Intended for new transit managers. Covers human resource management; financial management; administration; operations and service design; procurement; vehicle and facility management; safety, security and emergency management; and drug and alcohol program compliance. Reference materials are also provided.

Introduction to FTA Grants

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
FTA Program Management	NTI	Understanding FTA and its Programs	http://www.ntionline.com/courses/courseinfo.php?id=229	Webinar - video on YouTube	1 hour	free	Intended for employees of metropolitan planning organizations (MPOs), state/county/local planning agencies, transit agencies, state and local departments of transportation (DOTs), the Environmental Protection Agency (EPA), Federal Transit Administration (FTA), Federal Highway Administration (FHWA), and consultant firms. Provides a high-level overview of FTA's grant programs.
Intro to Transit	Univ. of Wisconsin CTED	Fundamentals of Public Transit	http://www4.uwm.edu/sce/course.cfm?id=302	Online; offered periodically (e.g., Oct. 22- Nov. 16, 2012)	4 weeks, 3-4 hours per week (12-16 hours total)	\$650	Topics covered: <ul style="list-style-type: none"> • The history of public transportation in the United States. • The benefits of public transportation. • Basic concepts of transit planning and operations. • An introduction to transportation finance and financial management. • Basic concepts of performance measurement and the importance of service benchmarks. • Techniques and concepts to effectively market transit service. • A review of laws and regulations governing public transportation, such as the Americans with Disabilities Act.

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
Intro to Transit	NTI	Transit Academy	http://www.ntionline.com/courses/courseinfo.php?id=47	Classroom; periodically offered at various locations	4 days	\$450	<p>Intended for professionals and decision-makers new to the transit industry and those who can benefit from an in-depth exposure to transit and its people. The Transit Academy is a comprehensive, behind-the-scenes study of a major transit system. It is designed to provide those new to transit with an in-depth understanding of the scope of responsibilities, variety of skills and range of activities that work together in delivering safe and efficient transit service. The academy is presented using lectures, demonstrations, hands-on activities and facility tours. Objectives:</p> <ul style="list-style-type: none"> • See firsthand what is required to operate a transit agency • Understand how the many functions within an agency work together to deliver transit service • Participate in briefings and discussions, led by transit leaders, about critical issues affecting transit • Learn how public policy decisions affect the functioning and needs of a transit agency • Hands on experience visiting bus, train or light rail operations facilities and control centers • Touring bus/train/light rail maintenance facilities • Visit major multimodal interchange points • Gain firsthand experience by interacting with key agency staff in informal discussions throughout the program • Riding the transit system to gain valuable insight relating to routes and schedules

Grant Administration

Knowledge Area(s)	Presented by	Course Name	URL	Format/Location/Frequency	Duration	Cost to State DOT employees	Comments
FTA Program Management	CTAA	Certified Transportation Program Administrator (CTPA) Examination Study Guide (builds on CCTM)	http://web1.ctaa.org/webmodules/webarticles/anmviewer.asp?a=38&z=116	Written study guide (5 pp.)	n.a.		Assumes participants have training, experience, and access to their State's State Management Plan. Resource for preparing for CTAP exam, an add-on to the CCTM exam. Discusses role and contents of a State Management Plan, including the relationship between the state and its grantees, how funding decisions are made, appeals process, input from grantees and external stakeholders, state-level coordination, technical assistance, and advocacy for the grantees. Mention is also made of civil rights, planning, enforcement/oversight, procurement, vehicle disposition, safety, grant termination. Emphasis is on being familiar with the State's own State Management Plan.
FTA Program Management	FTA	FTA Program Circulars	http://www.fta.dot.gov/legislation_law/13718.html	multiple circulars	n.a.	Free	FTA Circulars for S. 5310 & 5311 need to be updated for MAP-21
FTA Program Management	FTA	FTA Circular 5010.1D - Grants Management - General	http://www.fta.dot.gov/legislation_law/12349_8640.html	154-page circular	n.a.	Free	FTA Circular
Reporting to FTA	NTI	Rural NTD Reporting Webinar	http://www.ntionline.com/courses/courseinfo.php?id=212	Webinar; recording available by request	90 min	free	Updated annually
TEAM	FTA	TEAM-Web User Guide	http://ftateamweb.fta.dot.gov/static/userguide.html	405-page PowerPoint and online module version	n.a.	free	Version 2.8.5 updated April 26, 2013
TEAM	FTA Region VI	TEAM Training Webinars	http://www.fta.dot.gov/region4_12240.html	Webinar (live and archived) with course materials available online	2 hrs each (8 hrs total for 4 webinars)	free	Region IV TEAM Training webinars include: <ul style="list-style-type: none"> • Basic TEAM Access & Navigation • Grant Development 101 • Program Management • Reporting
TEAM	FTA Region I	The Book of Grants		52-page handbook	n.a.	free	Provides a series of examples of illustrating different kinds of grant requests, and what kinds of data and descriptive information to include in TEAM for each. Appendices include to make grant modifications and other excerpts from FTA circulars

Financial Management

Knowledge Area(s)	Presented by	Course Name	URL	Format/Location/Frequency	Duration	Cost to State DOT employees	Comments
Financial Management	MTAP/consultant	Fundamental Financial Management Training for Rural and Small Urban Public Transit Providers	http://scopt.transportation.org/Pages/FundamentalsofPublicTransportation.aspx	As scheduled by hosting states	7-8 hrs	Typically \$5,000 for approx. 30-35 students (includes \$1,000 for material printing)	<p>Designed for rural and small urban directors/manager or those responsible for the financial management of their transportation programs. Also benefits those responsible for grant accounting, general organizational accounting, revenue tabulation, and performance reporting. This course was developed in partnership by National RTAP and AASHTO's MTAP Program. Covers:</p> <ul style="list-style-type: none"> • Budget Process • Revenue and Cash Management • Strategic Planning and Performance Evaluation • Audits and Cost Allocation • Financial Reporting <p>States host the course, contracting with the consultant directly or through AASHTO. The host is responsible for AV equipment, meeting facilities, and food and has the option of producing the course materials with a reduced course fee.</p>
Financial Management	MTAP/National RTAP	Fundamental Financial Management for Rural and Small Urban Public Transit Providers	http://demo.pro.nationalrtap.org/emailResource.aspx?design=1&fileid=191	170-page training guide for above course	n.a.	free	Covers basic financial accounting such as revenue and cash management, budgeting, audits and cost allocation, and is intended for 5311 grantees. The module includes the training course in the form of a resource guide, and a CD-ROM with supplemental materials, including a PDF of the resource guide and a PowerPoint presentation for instructors.
Financial Management	SURTC, NDSU	Financial Management for Transit Operators	http://www.surtc.org/training/topics.php?id=4	workshop "training on demand"	½ - 1 day		Covers accounting fundamentals; revenue management; contracting; local match; cost allocations; budgeting; audits; and developing 3 - 5 year management plans.

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
Financial Management	SURTC, NDSU	Transit Dollars and Sense: Sound Fiscal Management Using Performance Measures	http://www.surtc.org/training/topics.php?id=25	workshop "training on demand"	1.5 to 2 days		Provides transit agencies with easy to understand and implement tools, strategies and suggestions that will help participants accurately know their fully allocated costs; prepare accurate budgets; evaluate their transit system's performance; improve decision making on a day-to-day basis and for future planning; and develop tracking mechanisms that can provide important information for managing transit operations. Covers: Accounting Fundamentals; Revenue Management; Reasonable Expenses; Documentation; Consistent Treatment; Full Cost Accounting; Cost Allocation; Budgeting; Financial /Business Planning; Common Performance Measures; Sources of Data; Using Performance Measures to Diagnose and Manage; Evaluating Cost Efficiency and Cost Effectiveness; Evaluating Service Effectiveness and Service Quality.
Planning - Financial	NTI	Financial Planning in Transportation	http://www.ntionline.com/courses/courseinfo.php?id=83	Classroom; periodically offered at various locations	3 days	free	Intended for those involved in the preparation of long-range transportation plans and improvement programs and the development and/or review of fiscal constraint documentation. At end of course, will be able to: <ul style="list-style-type: none"> List the federal requirements related to developing financial plans and demonstrating fiscal constraint as part of the transportation planning and programming process Develop reasonable revenue forecasts Identify & project the different types costs associated with maintaining existing transportation assets & building new capacity Discuss the causes of revenue and cost uncertainty Align revenues and expenses to demonstrate fiscal constraint Explain mechanics of financing & transportation financing instruments List the potential benefits and considerations associated with public private partnerships and alternative project delivery strategies Review best practices for developing fiscally constrained plans

Project Management and Grantee Oversight

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
Project Management	NTI	Project Management for Transit Professional	http://www.ntionline.com/courses/courseinfo.php?id=42	Classroom; periodically offered at various locations	2 days	free	Introductory course intended for transit professionals whose current and/or future responsibilities include planning, managing, and executing all phases of a projects lifecycle. Priority given to ARRA grantees. Course goal is to help transit professionals appreciate the importance of analyzing, leading, and managing the complexities of transit projects by providing them with the tools to foster success.

Procurement (includes DBE)

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
Procurement	National RTAP	Procurement-PRO	http://webbuilder.nationalrtap.org/WebApps/ProcurementPRO.aspx	Web-based application	n.a.	free	This web-based application guides rural and Tribal grantees and state DOTs through FTA procurement procedures. Using basic project information entered by the user, the program provides the required Federal clauses and certifications that must be included in procurement documents. Checklists, guidance, and a template for the procurement file are also provided.
Procurement	NTI	Procurement for Small and Medium Transit Systems	http://www.ntionline.com/courses/courseinfo.php?id=209	Classroom; periodically offered at various locations	2 days	free	Geared toward small and medium transit system administrative staff involved with procurement, State agency representatives, FTA regional staff. Limited to transit agencies that are recipients of 5307 (less than 50 vehicles), 5310 or 5311 funds. <ul style="list-style-type: none"> • Highlights FTA procurement requirements • Examines the procurement processes • Provides an overview of best procurement practice in light of FTA requirements

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
Procurement	NTI	Procurement Series - I - Orientation to Transit Procurement	http://www.ntionline.com/courses/courseinfo.php?id=21	Classroom; periodically offered at various locations	3.5 days	free	1 st of 4-part series, intended for those currently engaged in procurement for federal-funded transit agencies, contract administrators, project managers, procurement and contracting personnel wishing to improve their skills, transit suppliers, and FTA regional staff who review third-party contracting. Covers: <ul style="list-style-type: none"> • Procurement "Best Practices" • Teaming and Partnering • Organization of the Procurement Function • Functions and Principles of Procurement • Acquisition Planning • Option Year, Piggy-backing, and Cross-Border Leasing • Writing Specifications and Statements of Work • General Contract Provisions • Procurement Integrity • Debriefing and Protests • FTA's Role in the Procurement Process
Procurement	NTI	Procurement Series - II - Risk Assessment and Basic Cost or Price Analysis	http://www.ntionline.com/courses/courseinfo.php?id=18	Classroom; periodically offered at various locations	3.5 days	free	2 nd of 4-part series. Covers: <ul style="list-style-type: none"> • Price or Cost Analysis • Effect of Price or Cost Analysis on Types of Contracts • Contract Modifications • Determination of Fair and Reasonable Price • Methods of Conducting Cost Comparison • Role Risk Plays in Pricing • Effect of Contract Type on Allocation of Risk • Effect of Specification Type on Risk Allocation • FTA's Role in the Procurement Process
Procurement	NTI	Procurement Series - III - RFPs and Competitive Contract Negotiations	http://www.ntionline.com/courses/courseinfo.php?id=16	Classroom; periodically offered at various locations	3 days	free	3 rd of 4-part series. Covers: <ul style="list-style-type: none"> • Acquisition Planning and Strategy • Competitive Proposal Negotiations • Non-Competitive and Emergency Contract Negotiations • Negotiating Architectural/Engineering Service Contracts • Other Negotiated Procurement Methods • Negotiation Skills • Concessions

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
Procurement	NTI	Procurement Series - IV - Contract Administration	http://www.ntionline.com/courses/courseinfo.php?id=22	Classroom; periodically offered at various locations	3.5 days	free	4 th of 4-part series. Covers: <ul style="list-style-type: none"> • The Contracting Environment • The Contract Administration Team • Proactive Contract Administration • Managing Communication Between Contractor and Agency • The Influence of Pre-award Activity on Contract Administration • Modifying or Changing the Contract • Contractual Remedies Addressing Performance Issues • Resolution of Disputes • Contract Closeout
Procurement	FTA	FTA Circular 4220.1F - Third Party Contracting Guidance	http://www.fta.dot.gov/legislation_law/12349_8641.html	161-page circular	n.a.	free	FTA Circular
Procurement - Bus	NTI	Bus Procurement Workshop	http://www.ntionline.com/courses/courseinfo.php?id=23	Classroom; periodically offered at various locations	2 days	free	Target audience: procurement managers, project managers who work on bus procurements. <ul style="list-style-type: none"> • Highlights FTA procurement requirements • Examines bus procurement processes • Reviews the 2011 APTA Standard Bus Procurement Guidelines document • Provides opportunities for dialog between manufacturers and agencies
Procurement - DBE	NTI	Disadvantaged Business Enterprise Course	http://www.ntionline.com/courses/courseinfo.php?id=9	Classroom; periodically offered at various locations	3 days	free	Includes: <ul style="list-style-type: none"> • Federal requirements regarding DBEs • Setting annual DBE goals • Accounting for and reporting DBE participation • Certification of DBEs • Agency specific DBE requirements • FTA's role in the DBE process • Disputes and appeals under the DBE requirements

Planning (includes Title VI, Public Participation)

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
Planning - statewide	NTI	Introduction to Statewide Transportation Planning	http://www.ntionline.com/courses/courseinfo.php?id=78	Classroom; periodically offered at various locations	2 days	free	Intended for those involved with the Statewide Transportation Planning process (geared to new planners who deal with statewide planning issues). At end of course, will be able to: <ul style="list-style-type: none"> • Illustrate the continuous Statewide Transportation Planning process • List players, roles, and issues involved in statewide planning process • Explain the relationships of statewide planning to federal regulations and differing state and local requirements • List the required products of the statewide planning process • Describe the major elements in a statewide transportation plan • Discuss methods, techniques and strategies to implement the plan • Recognize how evaluation methods and performance measures are used in the statewide planning process • Recognize noteworthy statewide planning processes
Civil Rights - Planning	FTA	FTA Circular 4702.1B - Title VI	http://www.fta.dot.gov/legislation_law/12349_14792.html	130-page circular	n.a.	free	FTA Circular
Civil Rights - Planning	FTA	FTA Circular 4703.1 - Environmental Justice	http://www.fta.dot.gov/legislation_law/12349_14740.html	66-page circular	n.a.	free	FTA Circular

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
Civil Rights - Planning	SURTC, NDSU	Civil Rights & Title VI – What It Means for Transit Managers & Supervisors	http://www.surtc.org/training/topics.php?id=27	workshop “training on demand”	½ - 1 day		This workshop will look at the dramatic shift in America's population with regard to color and age. It will present information to assist participants in understanding the magnitude of existing and emerging American diversity. Updates will be provided on Title VI, Civil Rights, and Environmental Justice legislation and the effect recent lawsuits have had on the concept of multiculturalism and diversity. In addition, it will cover issues related to people with disabilities; awareness of hidden disabilities; language barrier issues and LEP requirements; responsiveness to cultural, gender and sexual orientation differences; minority community outreach and required public participation in the transportation planning process; as well as fulfilling your requirements for federal and state funding.
Civil Rights - Planning	SURTC, NDSU	Environmental Justice and Public Participation	http://www.surtc.org/training/topics.php?id=28	workshop “training on demand”	1 day		Addresses EJ requirements, including operational definitions; examples of adverse effects; environmental justice analysis; mitigation options; the relationship with Title VI and LEP; transportation planning efforts; and NEPA impacts. Also provides detailed guidance on a range of public engagement approaches that can be deployed by transit agencies to meet the DOT and FTA requirements, including: the purpose of public participation; approaches to gaining effective participation by minority and low-income populations; identifying specific resources; responding to results of public participation; and public participation as a constant component of transportation planning.
Civil Rights - Planning	SURTC, NDSU	Limited English Proficiency	http://www.surtc.org/training/topics.php?id=29	workshop “training on demand”	1 day		Provides an overview of the existing regulations; a discussion of current demographics (specific to the area where the course is being offered); detailed instructions on the Four Factor Analysis; requirements for public participation and community involvement; along with staff training. It includes an implementation plan for language assistance; templates for a Limited English Proficiency Plan; language assistance checklists and a self-assessment tool; and multiple take-home resources.
Planning - service	NTI	Introduction to Transit Service Planning	http://www.ntlionline.com/courses/courseinfo.php?id=223	Classroom; periodically offered at various locations	3 days	free	Intended for entry to mid level transit planners looking to gain or refresh their knowledge. Covered: <ul style="list-style-type: none"> • Public Transit in the US • Transit’s Operating Environment • Fundamentals of Transit Service and Networks • Route Level Planning and Design Concepts • Developing Service: Measuring Quality of Service • Developing Service: Calculating Capacity • Skills for Planning a Route Level Service Schedule

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
Planning - coordination	NTI	Managing Community Mobility	http://www.ntionline.com/courses/courseinfo.php?id=44	Classroom; periodically offered at various locations	2 days	free	Objectives: <ul style="list-style-type: none"> • Introduce the concept of mobility management and its application to transportation operations at the community level. • Identify funding resources available for implementing and operating mobility management programs. • Describe how to develop the Coordinated Public Transit and Human Service Transportation Plan Coordinated Plan. • Identify the necessary tools and resources to effectively implement a mobility management program. • Present case studies of successful mobility management models. • Discuss the skills of a mobility manager.
Planning - coordination	SURTC, NDSU	Transit Coordination: Finding Coordination Partners and Breaking Down Barriers	http://www.surtc.org/training/topics.php?id=5	workshop "training on demand"	2 hours		Covers coordination mandates; benefits of coordination; identifying potential coordination partners; initiating and implementing a coordination plan; and sustaining coordination
Planning - environmental	NTI / Rutgers Online	Environmental Impact Assessment Part A: NEPA as a Decision-Making Tool in Planning	http://www.ntionline.com/courses/courseinfo.php?id=89	5-week online course	5-7 hrs/week for 5 weeks (25-35 hrs total)	free	Intended for transportation professionals with less than 3 years experience working with the environmental process relative to project development. At end of course, will be able to: <ul style="list-style-type: none"> • Recognize the value of NEPA within historical legislative context • Identify the goals of NEPA • Describe the CEQ implementing regulations • Decide if NEPA applies to projects • Use NEPA as decision-making tool in transportation planning process
Planning - environmental	NTI / Rutgers Online	Environmental Impact Assessment Part B: The Environmental Impact Statement and Related Topics	http://www.ntionline.com/courses/courseinfo.php?id=87	5-week online course	5-7 hrs/week for 5 weeks (25-35 hrs total)	free	Recommended prerequisite: Part A. Intended for transportation professionals with less than 5 years experience working with the environmental process relative to project development. At end of course, will be able to: <ul style="list-style-type: none"> • describe process of preparing an environmental impact statement. • analyze and solve challenges associated with preparation of an EIS. • identify and address transportation-related issues that affect a transit project. • apply SAFETEA-LU requirements to transportation projects.

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
Planning - environmental	NTI	Introduction to Transportation Conformity	http://www.ntionline.com/courses/courseinfo.php?id=84	Classroom; periodically offered at various locations	3 days	free	<p>Presents basic information about conformity requirements and the relationship of the transportation and air quality planning processes in order to prepare agency staff (federal, state and local) to participate in interagency consultation and work effectively in resolving conformity issues. Objectives:</p> <ul style="list-style-type: none"> • To develop a clear understanding of the dynamic relationship between transportation planning and air quality planning in the context of transportation conformity • To provide an overview of the transportation planning and project development processes and to show how these processes are linked to the State Implementation Plan (SIP) through the conformity requirements • To provide an understanding of the roles and responsibilities in inter-agency coordination and techniques to provide opportunities for public participation in the conformity process
Planning - land use	NTI	Transit-Oriented Development	http://www.ntionline.com/courses/courseinfo.php?id=82	Classroom; periodically offered at various locations	2 days	free	<p>Intermediate course intended for transit agency planners and development specialists, State DOT planners and engineering, MPO staff, Federal employees (FTA, FHWA, FRA, HUD, DOL, DOE and others), city and county engineers and planners and consultants. Participants should have a working knowledge of basic transportation, land use planning, transit planning, and operational concepts. At end of course, will be able to:</p> <ul style="list-style-type: none"> • Express how transportation and land use planning must be linked to support successful TOD initiatives. • Recognize the factors that are converging to make TOD particularly attractive now and in the future. • Relate the importance of customer-oriented transit to cultivating successful TOD projects. • Describe TOD planning approaches and principles at the regional, station area, and site level. • Apply TOD planning principles to develop a station area plan. • Review TOD implementation strategies and tools.

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Planning - land use	NTI	Transportation and Land Use	http://www.ntionline.com/courses/courseinfo.php?id=72	Classroom; periodically offered at various locations	3 days	free	<p>Intended for transit operators, MPO staff, Federal employees (FTA, FHWA, EPA), state DOT planners and transportation specialists, city and county engineers and planners, resource agency staff and consultants. Objectives:</p> <ul style="list-style-type: none"> • Explain how transportation decisions affect land use, growth patterns, and related community impacts on both regional and local scales. • Explain how land use patterns affect people's travel patterns and the overall performance of the transportation system. • Describe the various transportation planning processes (including statewide planning, metropolitan planning, corridor planning/alternatives analysis, the NEPA process, subarea planning, and project development) and how land use considerations can be integrated into these processes. • Describe local comprehensive planning and land use regulatory activities, and how the process and outcomes of these activities can support local and regional transportation objectives. • Identify the full range of stakeholders (including public agencies, private and non-profit organizations, and the general public) that should be involved in transportation and land use planning and decision making, and describe methods for involving these stakeholders. • Describe methods that are available for implementing coordinated transportation and land use strategies. • Identify analytical tools that are available for measuring and forecasting the impacts of transportation and land use decisions.

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Planning - metropolitan	NTI	Introduction to Metropolitan Transportation Planning	http://www.ntionline.com/courses/courseinfo.php?id=85	Classroom; periodically offered at various locations	3 days	free	Intended for those working or participating in the metropolitan transportation planning process. Objectives: <ul style="list-style-type: none"> To explain why the metropolitan transportation planning process exists and why it is important To identify the requirements of the metropolitan transportation planning process and describe the products To identify the players in the process and describe their roles and responsibilities To distinguish among vision, goals, objectives and measures of effectiveness (MOEs) and describe the proper use of each To explain how to identify transportation needs and problems and how to analyze and evaluate alternative strategies To recognize the components of the "transportation plan" and the transportation improvement program (TIP) To explain relationships between planning and project development To describe why planning is a continuous process, requiring monitoring of the system condition and performance
Planning - public involvement	NTI	Public Involvement in Transportation Decision-making	http://www.ntionline.com/courses/courseinfo.php?id=86	Classroom; periodically offered at various locations	3 days	free	Intended for transit operators, metropolitan planning organization personnel, federal, state, local transportation agency staff, consultants, and others who are responsible for planning, implementing, or participating in any phase of the public involvement process. At end of course, will be able to: <ul style="list-style-type: none"> Identify public involvement challenges Describe U.S. DOT transportation decision-making processes, including those that trigger the National Environmental Policy Act (NEPA) Describe relationship between public involvement and decisionmaking Develop a public involvement plan with stakeholder assistance that includes attention to non-traditional populations as an evaluation component Describe interest-based problem solving and their underlying values Identify ways to enhance public involvement plans
Planning - Strategic	SURTC, NDSU	Strategic Planning	http://www.surtc.org/training/topics.php?id=31	workshop "training on demand"	2 days		Designed to create a process that answers: <ul style="list-style-type: none"> Where are we? Where do we want to go? How do we get there?

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Planning - statewide & metropolitan	NTI	State and Metropolitan Transportation Programming	http://www.ntionline.com/courses/courseinfo.php?id=77	Classroom; periodically offered at various locations	3 days	free	Intended for professional planners and programmers at state departments of transportation, metropolitan planning organizations, local governments, and transit operators and authorities. Objectives: <ul style="list-style-type: none"> • Improve the programming process by enhancing participants understanding of it • Strengthen the multimodal nature of programming by providing insights and tools • Enhance communications between diverse agencies by identifying commonality of interests • Improve the technical components of the programming process by providing the tools
Planning - statewide & metropolitan	NTI	State and Metropolitan Transportation Programming (Online)	http://www.ntionline.com/courses/courseinfo.php?id=218	Online	2-6 hours (self-paced)	free	Intended for professional planners and programmers at state departments of transportation, metropolitan planning organizations, local governments, and transit operators and authorities. Condensed version of classroom course.
Planning - technology	NTI	Implementing Rural Transit Technology	http://www.ntionline.com/courses/courseinfo.php?id=63	Classroom; periodically offered at various locations	2 days	free	Intended for those involved in planning & implementing technology-based applications for rural transit operations. At end of course, will be able to: <ul style="list-style-type: none"> • Assess agency performance and develop operational objectives • Identify technology-based solutions for meeting agency objectives • Conduct cost-benefit analyses to prioritize projects • Develop a project plan • Review traditional and innovative funding sources for technology projects • Discuss project implementation and management strategies • Evaluate project effectiveness in meeting agency objectives

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Planning - technology	NTI	Systems Engineering for Technology Projects	http://www.ntionline.com/courses/courseinfo.php?id=67	Classroom; periodically offered at various locations	2 days	free	Intended for transit professionals involved with planning, writing requirements, and implementing technology projects, but don't have experience with systems engineering. Geared towards medium to large transit agencies. Objectives: <ul style="list-style-type: none"> Recognize the need for a proactive mindset in approaching technology projects Describe the systems engineering process and how it can be applied to technology projects Conduct on-going assessments of internal and external factors and how they impact a technology project Discuss transit-specific challenges that occur during the systems engineering process Review case studies to show how agencies adapt systems engineering concepts to effectively develop and implement technology
Planning - technology	NTI	Using Regional ITS Architecture(s)	http://www.ntionline.com/courses/courseinfo.php?id=68	Classroom; periodically offered at various locations	2 days	free	Intended for transit professionals involved with the implementation of ITS projects (project leads or significant roles) including planners, engineers, operators, as well as individuals employed by MPOs, DOTs, and transportation agencies. Objectives: <ul style="list-style-type: none"> Explain how to integrate transit ITS systems with transportation ITS systems by using a regional ITS architecture Discuss opportunities for integrating ITS projects within a region Assess the current state of your regional ITS architecture(s) and identify if your project is part of it Explore how a regional ITS architecture can be used to support your ITS projects, planning and design process Describe the process for maintaining a regional ITS architecture

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Planning - technology	NTI	Transit ITS Workshop	http://www.ntionline.com/courses/courseinfo.php?id=66	Classroom; periodically offered at various locations	2 days	free	<p>Introductory-level workshop is geared for transit planners, engineers, operators, and individuals employed by MPOs, DOTs, and transportation agencies that will be involved in the planning, implementation, and ongoing management of transit ITS applications. Goal is to increase awareness of ITS technologies and how they can be used to deliver safer and more efficient transit services. At end of course, will be able to:</p> <ul style="list-style-type: none"> • Examine federal ITS regulations (23 CFR 940) relative to ITS projects • Identify technologies suitable for public transportation deployments • Investigate the use of feasibility analyses in identifying technologies to address needs • Discuss best practices for successful ITS procurements • Review timely industry topics, such as: <ul style="list-style-type: none"> • Social media's role in transit • Branding/marketing your ITS products • Open source/open data • Enterprise architecture
Planning - technology	Univ. of Wisconsin CTED	Geographic Information Systems in Transit	http://www4.uwm.edu/sce/course.cfm?id=5141	Online; offered periodically	11 weeks	\$595	Learn how to apply GIS knowledge in transit planning and operations to increase efficiency and effectiveness within your organization.

Asset Management

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
Asset Management	NTI	Transit Asset Management Principles for Small Systems	http://www.ntionline.com/courses/courseinfo.php?id=250	Archived webinar	90 min.	free	Presents good practices. Does not address MAP-21 asset management requirements

Safety and Security

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
Safety	SURTC, NDSU	Safety, Security and Emergency Management	http://www.surtc.org/training/topics.php?id=30	workshop "training on demand"	1.5 hrs to 2 days		Focuses on the unique needs of the rural transit provider and helps them to meet the Federal requirement of having a safety and security plan in place by assessing their current status and vulnerabilities. When finished with this two day workshop the participant will have developed emergency management, safety and security plans for their own system that can then be directly implemented.
Vehicle Maintenance	SURTC, NDSU	Monitoring and Managing Your Maintenance Program	http://www.surtc.org/training/topics.php?id=15	workshop "training on demand"	½ - 1 day		Addresses preventive maintenance, in-house vs. contracted maintenance, vehicle inspections, information management, warranty management, and more.

*Numerous additional resources on safety & security for subrecipients available through FTA, CTAA, TSI

Equal Employment Opportunity (EEO)

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
Subrecipient Human Resources / Civil Rights - EEO	FTA	FTA Circular 4704.1 - Equal Employment Opportunity	http://www.fta.dot.gov/legislation_law/12349_5951.html	36-page circular	n.a.	Free	FTA Circular

Drug and Alcohol Testing

Knowledge Area(s)	Presented by	Course Name	URL	Format/Location/Frequency	Duration	Cost to State DOT employees	Comments
Subrecipient Human Resources - Drug and Alcohol	FTA	Substance Abuse Management and Program Compliance	http://transit-safety.fta.dot.gov/training/New/CourseDetails.aspx?csid=20	Classroom; periodically offered at various locations	3 days	\$50	Designed for substance abuse program managers, human resource managers, safety managers, state DOT representatives, and third-party contractors. Provides information to evaluate and self-assess their agency's substance abuse program and its compliance with FTA regulations.

*Numerous resources related to drug and alcohol training for subrecipients available through FTA

Americans with Disabilities Act (ADA)

Knowledge Area(s)	Presented by	Course Name	URL	Format/Location/Frequency	Duration	Cost to State DOT employees	Comments
Civil Rights - ADA	NTI	Understanding ADA	http://www.ntionline.com/courses/courseinfo.php?id=13	Classroom; periodically offered at various locations	4 hours	free	Intro course for those who work at a transit agency, provide transit service, manage or operate paratransit services, and Federal, State, and local representatives who work with the ADA community. Includes: <ul style="list-style-type: none"> • ADA legal requirements that apply to public and private transportation related entities • 14 service provisions documented in 49 CFR Part 37, Subpart G • Requirements to determine if a public or private entity must provide complementary paratransit service • Criteria for complementary paratransit service • Requirements for existing and new transportation facilities • Compliance and enforcement responsibilities of FTA, DOT, and DOJ • Responsibilities & compliance procedures for public & private entities • Enforcement and investigation processes, including hearings, decisions, and notices

*Numerous additional resources related to ADA for subrecipients available through Easter Seals Project ACTION, CTAA

State Technical Assistance/Training for Subrecipients

<i>Knowledge Area(s)</i>	<i>Presented by</i>	<i>Course Name</i>	<i>URL</i>	<i>Format/Location/Frequency</i>	<i>Duration</i>	<i>Cost to State DOT employees</i>	<i>Comments</i>
Training	NTI	Transit Trainers' Workshop	http://www.ntionline.com/courses/courseinfo.php?id=176	Annual conference; locations vary	4 days	\$295	Intended for transit professionals involved in human resources, operations, maintenance, and safety training.

*Numerous additional resources related to training for subrecipients available through National RTAP, CTAA