



U.S. Department
of Transportation

**Federal Transit
Administration**

CIRCULAR

FTA C 9045.1

May 1, 2007

**Subject: NEW FREEDOM PROGRAM GUIDANCE AND APPLICATION
INSTRUCTIONS**

1. PURPOSE. This Circular issues new guidance on the administration of the New Freedom Program under 49 U.S.C. 5317, and guidance for the preparation of grant applications.
2. CANCELLATION. This is a new circular. It does not cancel any existing directive.
3. AUTHORITY.
 - a. Federal Transit Laws, Title 49, United States Code, Chapter 53.
 - b. 49 CFR 1.51.
4. WAIVER. FTA reserves the right to waive any requirements of this circular to the extent permitted by law.
5. FEDERAL REGISTER NOTICE. In conjunction with publication of this circular, a *Federal Register* notice was published on March 29, 2007 (72 FR 14851), addressing comments received during the development of the circular.
6. AMENDMENTS TO THE CIRCULAR. The Federal Transit Administration (FTA) reserves the right to amend this circular to update references to requirements contained in other revised or new guidance and regulations that undergo notice and comment procedures, without further notice and comment on this circular.
7. ACCESSIBLE FORMATS. This document is available in accessible format upon request. Paper copies of this circular as well as information regarding accessible formats may be obtained by calling FTA's Administrative Services Help Desk, at 202-366-4865.

/S/ Original Signed by _____

James S. Simpson
Administrator

Distribution: FTA Headquarters Offices (T-W-2)
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OPI: Office of Program
Management

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NEW FREEDOM PROGRAM CIRCULAR

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CHAPTER I

INTRODUCTION AND BACKGROUND

1. THE FEDERAL TRANSIT ADMINISTRATION (FTA). FTA is one of ten operating administrations within the U.S. Department of Transportation (DOT). Headed by an Administrator who is appointed by the President of the United States, FTA functions through a Washington, DC, headquarters office, ten regional offices, and five metropolitan offices that assist transit agencies in all 50 States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, Northern Mariana Islands, and American Samoa.

Public transportation includes buses, subways, light rail, commuter rail, monorail, passenger ferry boats, trolleys, inclined railways, people movers, and vans. Public transportation can be either fixed-route or demand-response service.

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

2. AUTHORIZING LEGISLATION. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, (SAFETEA-LU) (Pub. L. 109-059), enacted on August 10, 2005, and codified in 49 U.S.C. Chapter 53, provides \$286.4 billion in guaranteed funding for Federal surface transportation programs over six years through FY 2009, including \$52.6 billion for Federal transit programs—a 46 percent increase over transit funding guaranteed in the previous authorization Transportation Equity Act for the 21st Century (TEA-21).
3. HOW TO CONTACT FTA. FTA's regional and metropolitan offices are responsible for the provision of financial assistance to FTA grantees and oversight of grant implementation for most FTA programs. Certain specific programs are the responsibility of FTA headquarters. Inquiries should be directed to either the regional or metropolitan office responsible for the geographic area in which you are located. See Appendix E for additional information.

Visit the FTA website, <http://www.fta.dot.gov>, or contact FTA Headquarters at the following address and phone number:

Federal Transit Administration
Office of Communication and Congressional Affairs
400 Seventh Street SW
Washington, DC 20590
Phone: 202-366-4043
Fax: 202-366-3472

4. GRANTS.GOV. FTA posts all competitive grant opportunities on Grants.gov. Grants.gov is the one website for information on all discretionary Federal grant opportunities. Led by the U.S. Department of Health and Human Services (DHHS) and in partnership with Federal grant-makers including 26 agencies, 11 commissions and several States, Grants.gov is one of 24 Federal cross-agency E-government initiatives. It is designed to improve access to government services via the internet. More information about Grants.gov is available at <http://www.grants.gov>.
5. DEFINITIONS. All definitions in 49 U.S.C. 5302(a) apply to this circular, as well as the following definitions:
 - a. Accessible Taxi: An accessible taxi is a vehicle that is used by a private provider of on-demand transportation service to the public that is regulated and licensed for such use by the municipality, county or other government entity. An accessible taxi is one which has the capacity to accommodate a passenger who uses a “common wheelchair” as defined under 49 CFR 37.3, at a minimum, while remaining in his/her personal mobility device inside the vehicle, and meets the same requirements for lifts, ramps and securement systems specified in 49 CFR part 38, subpart B.
 - b. Americans with Disabilities Act (ADA): Public Law 336 of the 101st Congress, enacted July 26, 1990 (42 U.S.C. 12101 et seq.). The ADA prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation.
 - c. Chief Executive Officer of a State: The Governor of any of the 50 States or Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and Virgin Islands, the Mayor of the District of Columbia, or his/her designee.
 - d. Competitive Selection Process: A process to choose which projects will be funded. The process is conducted by the designated recipient of FTA funds in cooperation with the appropriate metropolitan planning organization (MPO) in urbanized areas over 200,000 in population or the State in areas under 200,000 in population. The projects selected must be derived from a Locally Developed, Coordinated Public Transit-Human Services Transportation Plan.
 - e. Coordinated Plan: See “Locally Developed Coordinated Public Transit-Human Services Transportation Plan.”
 - f. Demand Responsive System: Any non-fixed route system of transporting individuals that requires advanced scheduling including services provided by public entities, non-profits, and private providers. An advance request for service is a key characteristic of demand responsive service.
 - g. Designated Recipient: See “Recipient.”

- h. Elderly Individuals: Includes, at a minimum, all persons 65 years of age or older. Grantees are permitted to use a definition that extends eligibility for service to younger (e.g., 62 and older, 60 and over) persons.
- i. Elderly Individuals and Individuals with Disabilities Program (Section 5310): FTA formula program for public transportation capital projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities. 49 U.S.C. 5310.
- j. Fixed Route System: Public transportation service provided in vehicles operated along pre-determined routes according to a fixed schedule.
- k. Human Service Transportation: Transportation services provided by or on behalf of a human service agency to provide access to agency services and/or to meet the basic, day-to-day mobility needs of transportation-disadvantaged populations, especially individuals with disabilities, older adults, and people with low incomes.
- l. Individual With a Disability: An individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use effectively, without special facilities, planning, or design, public transportation service or a public transportation facility. 49 U.S.C. 5302(a)(5).
- m. Job Access and Reverse Commute Program (JARC): FTA formula grant program for projects relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, and for public transportation projects designed to transport residents of urbanized areas and nonurbanized areas to suburban employment opportunities. 49 U.S.C. 5316.
- n. Locally Developed, Coordinated Public Transit-Human Services Transportation Plan: A plan that identifies the transportation needs of individuals with disabilities, older adults, and people with low incomes, provides strategies for meeting those local needs, and prioritizes transportation services for funding and implementation.
- o. Mobility Management: Consists of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a government entity, under 49 U.S.C. Chapter 53 (other than Section 5309). Mobility management does not include operating public transportation services.
- p. Non-profit Organization: A corporation or association determined by the Secretary of the Treasury to be an organization described by 26 U.S.C. 501(c) which is exempt from taxation under 26 U.S.C. 501(a) or one which has been determined under State law to

be non-profit and for which the designated State agency has received documentation certifying the status of the non-profit organization.

- q. Older Adults: See “Elderly Individuals.”
 - r. Other than Urbanized (Nonurbanized) Area: Any area outside of an urbanized area. The term “nonurbanized area” includes rural areas and urban areas under 50,000 in population not included in an urbanized area.
 - s. Paratransit: Comparable transportation service required by the ADA for individuals with disabilities who are unable to use fixed route transportation systems.
 - t. Program of Projects: A list of projects to be funded in a grant application submitted to FTA by a designated recipient. The program of projects (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 program of projects includes a brief description of the projects, total project cost and Federal share for each project, and the amount of funds used for program administration from the 10 percent allowed.
 - u. Recipient: In large urbanized areas over 200,000 in population, an entity designated, in accordance with the planning process under 49 U.S.C. 5303, 5304, and 5306, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under the New Freedom Program that is attributable to a transportation management area. In nonurbanized areas or small urban areas under 200,000 in population, the designated recipient is the State agency designated by the chief executive officer of a State to receive and apportion amounts under New Freedom that are attributable to the State for small urbanized and nonurbanized areas.
 - v. Subrecipient: Refers to a State or local governmental authority, non-profit organization, or operator of public transportation services that receives a grant under the New Freedom Program indirectly through a recipient.
 - w. Urbanized Area: 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.
6. PROGRAM HISTORY. The New Freedom Program is a new program authorized in SAFETEA-LU to support new public transportation services and public transportation alternatives beyond those required by the ADA of 1990 (42 U.S.C. 12101 et. seq.). This program is codified at 49 U.S.C. 5317.

The New Freedom Program grew out of the New Freedom Initiative introduced by the Administration under Executive Order 13217, “Community-Based Alternatives for Individuals with Disabilities,” on June 18, 2001. The Order states: “The United States is committed to community-based alternatives for individuals with disabilities and recognizes that such services advance the best interests of the United States” and calls upon the Federal government to assist States and localities to swiftly implement the decision of the United States Supreme Court in *Olmstead v. L.C.*

Executive Order 13217 directed six Federal agencies, including the Departments of Justice, Health and Human Services, Education, Labor, Housing and Urban Development and the Social Security Administration to “evaluate the policies, programs, statutes and regulations of their respective agencies to determine whether any should be revised or modified to improve the availability of community-based services for qualified individuals with disabilities.” The Departments of Transportation and Veterans Affairs, the Small Business Administration, and the Office of Personnel Management, though not named in the Executive Order, also joined in the implementation effort. Together, these agencies formed the Interagency Council on Community Living under the leadership of the DHHS.

Individuals who are transportation-disadvantaged face different challenges in accessing services depending on whether they live in urban, rural, or suburban areas. The geographic dispersion of transportation-disadvantaged populations also creates challenges for human service programs hoping to deliver transportation for their passengers.

Over the years, in response to these challenges, Federal, State and local governments, and community-based organizations created specialized programs to meet particular transportation needs. At the Federal level alone, there are at least 62 separate programs, administered by eight Federal departments, and even more agencies, that provide special transportation services to individuals with disabilities, older adults, and people with low incomes. Most of these are human service programs that fund limited transportation services to provide eligible participants with access to particular services, such as job training, health care, senior centers, or rehabilitation programs.

The President has included funds for the New Freedom Program in the annual budget request to Congress since FY 2003; however, it was not until the enactment of SAFETEA-LU that funding was authorized by Congress. Funding was first appropriated for the transportation provision in FY 2006. The New Freedom Program is intended to fill the gaps between human service and public transportation services previously available and to facilitate the integration of individuals with disabilities into the workforce and full participation in the community.

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CHAPTER II

PROGRAM OVERVIEW

1. STATUTORY AUTHORITY. The New Freedom Program is authorized under the provisions set forth in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, (SAFETEA-LU), enacted on August 10, 2005, as codified at 49 U.S.C. 5317. The Secretary may make grants to recipients for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 12101 et seq.), that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

In accordance with 49 U.S.C. 5317(c), New Freedom funds shall be apportioned as follows:

- a. 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that the number of individuals with disabilities in each such urbanized area bears to the number of individuals with disabilities in all such urbanized areas;
- b. 20 percent of the funds shall be apportioned among the States in the ratio that the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in each State bears to the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in all States; and
- c. 20 percent of the funds shall be apportioned among the States in the ratio that the number of individuals with disabilities in other than urbanized areas in each State bears to the number of individuals with disabilities in other than urbanized areas in all States.

The Catalog of Federal Domestic Assistance (CFDA) number for the New Freedom Program is 20.521.

2. PROGRAM GOAL. The New Freedom formula grant program aims to provide additional tools to overcome existing barriers facing Americans with disabilities seeking integration into the work force and full participation in society. Lack of adequate transportation is a primary barrier to work for individuals with disabilities. The 2000 Census showed that only 60 percent of people between the ages of 16 and 64 with disabilities are employed. The New Freedom formula grant program seeks to reduce barriers to transportation services and expand the transportation mobility options available to people with disabilities beyond the requirements of the ADA of 1990.
3. NEW FREEDOM PROGRAM MEASURES. Under the Government Performance Results Act (GPRA), The Federal Transit Administration (FTA) is required by law to “establish performance goals to define the level of performance” and to also “establish performance indicators to be used in measuring relevant outputs, service levels, and outcomes” for each

of its programs. The performance measures described here are designed to fulfill FTA's obligations under this Act. These measures will be used at a program level, and will not be used by FTA to assess individual grants.

FTA will be capturing overall program measures to be used with the GPRA and the Performance Assessment Rating Tool process for the U.S. Office of Management and Budget (OMB). FTA will conduct independent evaluations of the program focused on specific data elements in order to better understand the implementation strategies and related outcomes associated with the program. The following indicators are targeted to capture overarching program information as part of the Annual Report that each grantee submits to FTA. Specific reporting requirements for recipients can be found in Chapter 6.

The three measures established for the New Freedom Program are:

- a. Increases or enhancements related to geographic coverage, service quality and/or service times that impact availability of transportation services for individuals with disabilities as a result of the New Freedom projects implemented in the current reporting year.
 - b. Additions or changes to environmental infrastructure (e.g., transportation facilities, side walks, etc), technology, and vehicles that impact availability of transportation services as a result of the New Freedom projects implemented in the current reporting year.
 - c. Actual or estimated number of rides (as measured by one-way trips) provided for individuals with disabilities as a result of the New Freedom projects implemented in the current reporting year.
4. RECIPIENT ROLE IN PROGRAM ADMINISTRATION. The State agency designated by the chief executive officer of a State has the principal authority and responsibility for administering the New Freedom Program in urbanized areas under 200,000 in population and nonurbanized areas. The designated recipient of New Freedom funds in urbanized areas over 200,000 in population has the principal authority and responsibility for administering the New Freedom Program.

The recipient's responsibilities include:

- a. notifying eligible local entities of funding availability;
- b. developing project selection criteria;
- c. determining applicant eligibility;
- d. conducting the competitive selection process (see Chapter IV);
- e. forwarding an annual program of projects (POP) and grant application to FTA;
- f. ensuring that all subrecipients comply with Federal requirements;

- g. documenting the State's or designated recipient's procedures in a State Management Plan or a Program Management Plan as appropriate (see Chapter VII);
- h. certifying that allocations of grants to subrecipients are distributed on a fair and equitable basis; and
- i. certifying that all projects are derived from a locally developed, coordinated public transit-human services transportation plan developed through a process that consists of representatives of public, private, and non-profit transportation and human services providers with participation by the public.

5. FTA ROLE IN PROGRAM ADMINISTRATION.

- a. FTA headquarters in Washington, DC, serves a broad, program level role in the administration of the program. FTA headquarters:
 - (1) provides overall policy and program guidance for the New Freedom Program;
 - (2) apportions funds annually to the States and designated recipients;
 - (3) develops and implements financial management procedures;
 - (4) initiates and manages program support activities; and
 - (5) conducts national program reviews and evaluations.
- b. FTA regional offices are responsible for the day-to-day administration of the program. Regional offices:
 - (1) review and approve grant applications;
 - (2) obligate funds;
 - (3) work with designated recipients to implement the annual program;
 - (4) provide technical assistance;
 - (5) receive designated recipient's certifications and amendments to the program of projects;
 - (6) monitor and close grants;
 - (7) review and approve State Management Plans (SMPs) and Program Management Plans (PMPs); and
 - (8) conduct triennial reviews and management reviews every three years or as circumstances warrant, and other reviews as necessary.

6. RELATIONSHIP TO OTHER FTA PROGRAMS.

- a. Section 5307 and Section 5311, the Urbanized Area and Nonurbanized Area Formula Programs. The Section 5307 program makes funds available to designated recipients to assist in the development, improvement and use of public transportation systems in urbanized areas. The Section 5311 program makes Federal funds available to the States to assist in the development, improvement and use of public transportation systems in nonurbanized areas. While the overall objectives of the Section 5307, Section 5311, and New Freedom Programs differ (that is, Sections 5307 and 5311 are to provide transportation to the general public in urbanized and nonurbanized areas and the objective of the New Freedom Program is to provide new public transportation and public transportation alternatives beyond those required by the ADA for individuals with disabilities in both rural and urbanized areas), there are parallels which make it desirable for recipients to consider all resources and plan for their use in a complementary way. Local transit providers are expected to participate in the development of a coordinated public transit-human service transportation plan.

Under Section 5311, the Rural Transportation Assistance Program (RTAP) provides for technical assistance, training, and related support services in nonurbanized areas. New Freedom providers may participate in RTAP sponsored activities, at the State's discretion, as long as the activities are primarily designed and delivered to benefit nonurbanized transit providers.

- b. Coordination Provisions, Sections 5310, JARC and New Freedom. Federal transit law, as amended by SAFETEA-LU, requires that projects funded from the Elderly Individuals and Individuals with Disabilities (Section 5310), Job Access and Reverse Commute (JARC, Section 5316), and New Freedom (Section 5317) programs be derived from a locally developed, coordinated public transit-human service transportation plan ("coordinated plan"). A coordinated plan should maximize the programs' collective coverage by minimizing duplication of services. Further, a coordinated plan should be developed through a process that includes representatives of public, private and non-profit transportation and human services providers, and participation by the public. A coordinated plan may incorporate activities offered under other programs sponsored by Federal, State, and local agencies to greatly strengthen its impact. FTA also encourages participation in coordinated service delivery as long as the coordinated services will continue to meet the purposes of all programs. Chapter V provides details on the coordinated planning requirements.
- c. Flexible Funds. Surface Transportation Program (STP) funds, among others, are a source of flexible funds for both highway and transit projects. At the State's discretion, these flexible funds may be used for transit capital projects. This provision includes transit capital projects funded through the Section 5307 or 5311 that meet the transportation needs of individuals with disabilities.

7. COORDINATION WITH OTHER FEDERAL PROGRAMS.

- a. The Federal Interagency Coordinating Council on Access and Mobility (CCAM).

The Federal Interagency Coordinating Council on Access and Mobility (CCAM), comprised of 11 Federal departments and agencies, was established by Executive Order 13330, "Human Service Transportation Coordination," signed by President George W. Bush on February 24, 2004. The members consist of the Secretaries of the U.S. Departments of Transportation, Health and Human Services, Labor, Education, Agriculture, Housing and Urban Affairs, Interior, Veterans Affairs, the Commissioner of Social Security, the Attorney General, and the Chair of the National Council on Disabilities. The CCAM coordinates 64 Federal programs providing transportation funding for older Americans, people with disabilities, and individuals with low incomes.

The CCAM is tasked with seeking ways to reduce transportation service duplication, increase efficient transportation service delivery, and expand transportation access for older Americans, people with disabilities, and individuals with low incomes. To implement the Executive Order, the CCAM launched the United We Ride initiative to break down the barriers between programs and set the stage for local partnerships that generate common sense solutions and deliver A-plus performance for everyone who needs transportation. United We Ride has been working with States and communities to address gaps and needs related to human service transportation in their geographic regions. This includes assistance with the development and implementation of action plans for coordinated human service transportation.

Coordination Councils at the State and local levels include participation from funding agencies, public and private transportation providers, human service providers, and consumers, including people with disabilities. These councils are actively working on identifying needs, resources, and gaps for people with disabilities and others who require assistance with transportation services.

Consistent with the presidential directive, members of the CCAM adopted the following policy statement in October 2006: "Member agencies of the Federal Coordinating Council on Access and Mobility resolve that federally-assisted grantees that have significant involvement in providing resources and engage in transportation delivery should participate in a local coordinated human services transportation planning process and develop plans to achieve the objectives to reduce duplication, increase service efficiency and expand access for the transportation-disadvantaged populations as stated in Executive Order 13330."

At the same time, the CCAM adopted a policy clarifying federal policy regarding vehicle sharing: "Member agencies of the Federal Coordinating Council on Access and Mobility resolve that Federally-assisted grantees that have significant involvement in providing resources and engage in transportation should coordinate their resources in order to maximize accessibility and availability of transportation services."

Both of these policy statements are intended for implementation by each CCAM member department through administrative, regulatory, and/or legislative mechanisms.

The CCAM has also established the UWR Logic Model and Performance Measure tool to assist States and communities with identifying potential measures in a coordinated transportation system. The policy statements, logic model and other tools can be found on the United We Ride website at www.unitedweride.gov.

- b. Other Interagency Coordination. FTA encourages State Departments of Transportation and urbanized designated recipients' participation in interagency efforts such as the State Rural Development Councils, Economic Development Councils, and Human Service Transportation Coordinating Councils. Coordination Councils at the State and local levels often include participation from public and private transportation providers, human service providers, and passengers, including individuals with disabilities. These councils are actively working on identifying needs, resources, and gaps for individuals with disabilities and others who require assistance with transportation services.
- c. Welfare to Work. Because New Freedom includes transportation access to employment for people with disabilities, recipients are encouraged to reference joint guidance on funding resources regarding access to work published by the Departments of Transportation, Labor and Health and Human Services on May 27, 1998. For more information visit http://www.fta.dot.gov/funding/grants/grants_financing_3715.html.

CHAPTER III

GENERAL PROGRAM INFORMATION

1. RECIPIENT DESIGNATION. The chief executive officer of each State or an official designee must designate a public entity to be the recipient for New Freedom funds. In urbanized areas with populations less than 200,000 and in nonurbanized areas, the State is the designated recipient. For these areas, the chief executive officer of a State designates a State agency responsible for administering the New Freedom Program, and officially notifies the appropriate Federal Transit Administration (FTA) regional office in writing of that designation. The chief executive officer of a State may designate the State agency that receives Other Than Urbanized Area (Nonurbanized Area, Section 5311) and/or the Elderly Individuals and Individuals with Disabilities (Section 5310) Program funds to be the New Freedom recipient, or the chief executive officer of a State may designate a different agency.

In urbanized areas over 200,000 in population, the recipient charged with administering the New Freedom Program must be officially designated through a process consistent with 49 U.S.C. 5307(a)(2):

an entity designated in accordance with the planning process under Sections 5303, 5304, and 5306, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under Section 5336 that are attributable to transportation management areas identified under Section 5303.

The Urbanized Area Formula (Section 5307) designated recipient provides and coordinates transportation services for the region and is familiar with FTA's program oversight requirements; therefore, it is appropriate for the designated recipient for the New Freedom Program to be the same as the designated recipient for Section 5307 funds. Alternatively, the metropolitan planning organization (MPO), State, or another public agency may be a preferred choice based on local circumstances. The designation of recipient should be made by the chief executive officer of a State in consultation with responsible local officials and publicly owned operators of public transportation. The recipient for New Freedom funds will apply to FTA for these funds on behalf of subrecipients within the recipient's area.

Designations remain in effect until changed by the chief executive officer of a State by official notice of re-designation to the appropriate FTA regional administrator.

2. DESIGNATION OF MULTIPLE RECIPIENTS IN URBANIZED AREAS. FTA encourages the designation of a single designated recipient for each urbanized area over 200,000 in population, including multi-State urbanized areas in order to streamline the administration of the program and foster coordination. The chief executive officer of a

State or an official designee may also designate a single recipient for contiguous large urbanized areas. However, nothing precludes the designation of multiple designated recipients.

For multi-State urbanized areas of less than 200,000 in population, the chief executive officer of each State must designate a State agency for that respective State's portion. When more than one recipient is designated for a single large urbanized area, the designated recipients must agree on how they split the single apportionment to the urbanized areas and notify FTA annually of the split and the geographic part of the urbanized area each recipient will be responsible for managing.

3. ROLE OF THE DESIGNATED RECIPIENT. The designated recipient is responsible for conducting the competitive selection process in cooperation with the MPO (as mentioned above, in some instances the designated recipient may be the MPO) and awarding grants to subrecipients.

The designated recipient for New Freedom funds will apply to FTA for funding using the Transportation Electronic Award and Management (TEAM) system (see Appendix A) on behalf of itself and/or eligible subrecipients for New Freedom projects within the recipient's area. The designated recipient is responsible for the following actions:

- a. Conducting an area-wide or Statewide competitive selection process;
- b. Certifying a fair and equitable distribution of funds resulting from the competitive selection process;
- c. Certifying that each project selected was derived from a locally developed, coordinated public transit-human services transportation plan;
- d. Certifying that local plans are developed through a process that included representatives of public, private, and non-profit transportation and human services providers and participation by the public. The designated recipient is not directly responsible for developing the coordinated plan, but is responsible for ensuring that the plan from which a selected project was derived was developed in compliance with the statutory requirements. An agency or organization other than the designated recipient may take the lead in developing the coordinated plan;
- e. Managing all aspects of grant distribution and oversight for subrecipients receiving funds under this program; and
- f. Submitting reports as required by FTA.

Note: The designated recipient is responsible for conducting the competitive selection process. However, the designated recipient may establish alternative arrangements to administer and conduct the competitive process. For example, the MPO could be the lead agency for the competitive selection, even if it is not the designated recipient.

Alternatively, the designated recipient may, through interagency agreement or third party contracts, provide for the administrative management and oversight of the competitive selection process.

Funds are obligated based on the annual program of projects included in a grant application. FTA does not conduct project-by-project review and approval of each project. The recipient must ensure that local applicants and project activities are eligible and in compliance with Federal requirements and that the program provides for maximum feasible coordination of transportation services assisted under New Freedom with transportation services assisted by other Federal sources. In addition, the recipient monitors local projects; ensures that all program activities are included in a Statewide Transportation Improvement Program (STIP); and oversees project audits and closeouts. The recipient must certify to FTA annually that the recipient and subrecipients have met or will meet all Federal requirements, including all metropolitan and statewide planning requirements. Once FTA has approved the application, funds are available for administration and for allocation to individual subrecipients.

Under Department of Transportation (DOT) regulations, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” 49 CFR part 18 (sometimes referred to as the “common grant rule” or “common rule”), the State relies on its own laws and procedures in the areas of financial management systems, equipment, and procurement for itself and its public entity subrecipients. For private non-profit agencies, grant management requirements are contained in 49 CFR part 19, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations.” States may have uniform requirements for all of their grantees, both private non-profit agencies and governmental authorities, as long as such requirements are not inconsistent with part 19. Designated recipients other than States must follow the provisions of 49 CFR part 18; subrecipients follow part 18 if they are public entities and part 19 if they are private non-profit entities.

4. ELIGIBLE DIRECT RECIPIENTS.

- a. Urbanized Areas over 200,000. The designated recipient may apply directly to FTA for a New Freedom grant for itself and on behalf of subrecipients. As discussed above, the designated recipient for New Freedom in an urbanized area over 200,000 in population may or may not be the same agency as the designated recipient for Section 5307 funds.

The competitive selection process may result in New Freedom funds being allocated to a transit authority that is not the designated recipient for the New Freedom Program but is a designated recipient under Section 5307, and thus, typically receives funds directly from FTA. Instead of entering into a subrecipient relationship, the selected agency may request that FTA make the New Freedom grant for the project directly to the transit agency that is the designated recipient for Section 5307. If this occurs, the New Freedom designated recipient must enter into a supplemental agreement with the

Section 5307 designated recipient as part of the application to release the New Freedom designated recipient from any liability under the grant agreement. Supplemental agreements are provided in TEAM and must be electronically executed.

- b. Small Urbanized Areas under 200,000 in population. The State is the designated recipient and may apply directly to FTA for grant funds for itself and its subrecipients.

In order for projects to be implemented by transit providers in small urbanized areas, the State, after consultation with responsible local officials and publicly owned operators of public transportation, may transfer New Freedom funds to Section 5307 for administration of competitively selected New Freedom projects within a Section 5307 grant to an eligible recipient under that program. This transfer also removes the oversight responsibility for those funds from the designated recipient to the grant recipient under Section 5307. The State will only be responsible for the program requirements (such as competitive selection and ensuring projects are derived from a coordinated plan) and data collection for annual reporting purposes. Although the funds can be applied for in a Section 5307 grant, the grant should only contain funding and activities for the New Freedom project. New Freedom, JARC, and Section 5307 funds cannot be combined in a single grant because disbursements cannot be recorded to the appropriate program.

- c. Nonurbanized Areas. The State is the designated recipient for New Freedom funds for nonurbanized areas. Only the State may apply to FTA for New Freedom funds for subrecipients in nonurbanized areas.

Federally-recognized Indian tribes are eligible direct recipients under the Section 5311 program. A tribe may apply directly to FTA for New Freedom funds that have been competitively awarded to the tribe, or the State may transfer New Freedom funds to Section 5311 so that FTA can make a direct grant to the tribe under that program.

5. ELIGIBLE SUBRECIPIENTS. There are three categories of eligible subrecipients of New Freedom funds:
 - a. Private non-profit organizations;
 - b. State or local governmental authority; and
 - c. Operators of public transportation services including private operators of public transportation services.
6. APPORTIONMENT OF NEW FREEDOM FUNDS. Of the total New Freedom funds available, FTA apportions 60 percent among designated recipients in large urbanized areas; 20 percent to the States for small urbanized areas; and 20 percent to the States for rural and small urban areas under 50,000 in population. New Freedom funds are apportioned among the recipients by formula. The formula is based on the ratio that the number of individuals with disabilities in each such area bears to the number of individuals with disabilities in all

such areas. Example: a large urbanized area's apportionment is based on the ratio that the number of individuals with disabilities in that large urbanized area bears to the number of individuals with disabilities in all large urbanized areas. The number of disabled individuals in an area is determined according to the latest available U.S. Census data for individuals with disabilities over the age of five. The annual apportionment for New Freedom is published in the *Federal Register* following the enactment of the annual DOT appropriations act.

7. FUNDS AVAILABILITY. New Freedom funds are available for obligation during the fiscal year of apportionment plus two additional years. Thus, for example, funds apportioned in fiscal year 2006 are available until the end of fiscal year 2008 (September 30, 2008). Any funds remaining unobligated at the end of the period of availability are added to the next year's program apportionment and are reapportioned among all areas.
8. TRANSFER OF FUNDS.
 - a. Transfer to Other FTA Programs. A State may transfer New Freedom funds apportioned to it for rural or small urbanized areas to apportionments under Section 5311(c) or 5307, or both. The purpose of the transfer provision, however, is not to supplement the resources available under the State's Section 5311 or Section 5307 apportionments. Transfer to Section 5311 or Section 5307 is permitted, but not required. FTA will also award stand-alone New Freedom grants to the State. Stand-alone grants facilitate the State's ability to recover and reprogram New Freedom Program funds within the period of availability if they are not expended for the projects the State originally selected. If the State does choose to transfer the funds into the Section 5311 or Section 5307 programs, FTA has established a scope code (647) for New Freedom projects included within a Section 5311 or 5307 grant. Although New Freedom funds can be transferred to Section 5307 for award directly to a small urbanized area recipient in a Section 5307 grant, the grant should only include funding and activities for the New Freedom project(s). States may combine funds from multiple programs in a consolidated Section 5311 grant, but the State must track, manage, and report on each program's funds separately within the consolidated grant.

One purpose for transferring New Freedom Program funds to Section 5311 is to allow Federally recognized Indian tribes, which are eligible direct recipients under the Section 5311 program but not under the other programs, to apply directly to FTA for funds allocated to them under the State's competitive selection process for New Freedom. Similarly, transferring New Freedom funds to Section 5307 allows direct recipients of Section 5307 grants in small urbanized areas, to apply directly to FTA for funds competitively awarded under the State's New Freedom Program.

- b. Transfer of (FHWA) Flexible Funds. Surface Transportation Program (STP) funds, Congestion Mitigation and Air Quality (CMAQ) funds, and certain other "flexible" funds, may be transferred from Federal Highway Administration (FHWA) to FTA for use by the recipient for capital transit projects. Although these funds may not be flexed

directly into the New Freedom Program, flexible funds may be transferred to the Section 5307 or 5311 programs for capital projects that support the purposes of the New Freedom Program and are eligible under the program receiving the funds. The funds are available for obligation based on the period of availability applicable to the receiving program.

- c. Notification of Transfers. The State must notify the FTA regional administrator of the State's intent to have funds transferred so that FTA can initiate the transfer. For transfers of New Freedom funds into the Section 5307 program for urbanized areas under 200,000 in population or Section 5311(c), the notification must indicate the amount of funds transferred, the program to which they are being transferred, and specific projects selected under New Freedom.
9. CONSOLIDATION OF GRANTS TO INSULAR AREAS. FTA grants to insular areas may be consolidated under the provisions of 48 U.S.C. 1469a. This provision permits Federal agencies to streamline and consolidate certain grant-in-aid programs available to the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. These insular areas receive Section 5311 apportionments and Rural Transit Assistance Program (RTAP) allocations annually as well as Section 5310, 5316, and 5317 funds, and in some cases, Section 5307 funds. [Note: Under Section 3009 of SAFETEA-LU, the Virgin Islands are treated as an urbanized area for the purpose of 5307. FTA does not apportion Section 5311 or RTAP funds to the Virgin Islands.] Specifically, 48 U.S.C. 1469a permits:
- a. Federal agencies to consolidate any or all grants to each of the insular areas and to waive requirements for matching funds, applications, and reports with respect to the consolidated grants; and
 - b. Each insular area to use the consolidated grant funds for any purpose or program authorized for any of the consolidated grants.

For these areas, FTA will consolidate Section(s) 5307, 5310, 5311, 5316, and 5317 funding into a single grant by transferring funds from one Section to another. The insular areas may transfer all or a portion of the funds apportioned for Section 5307, 5310, 5316, or 5317 to Section 5311 for use under any of these Sections. This should improve the efficiency of grant making and grant management for these areas which have limited staff resources and receive small amounts of funds under each of these programs. Those insular areas interested in submitting applications for consolidated grants should notify the appropriate FTA regional office for application procedures and consolidation requirements. Among other things, the area should identify the intended use of consolidated funds and should document that the transportation of elderly individuals and individuals with disabilities will not be adversely affected.

In addition, 48 U.S.C. 1469a(d) allows a Federal agency to waive any local matching share requirements for grants to insular areas. FTA has no authority under 48 U.S.C. 1469a to waive any cross-cutting requirements, such as Buy America or drug and alcohol testing.

10. RECIPIENT ADMINISTRATIVE EXPENSES. Up to 10 percent of the recipient's total fiscal year apportionment may be used to fund program administration costs including administration, planning and technical assistance. Program administration costs may be funded at 100 percent Federal share and do not require matching local funds.

The State and the designated recipient in urbanized areas have pre-award authority to incur administrative costs for New Freedom. Because the program is continuously managed, oldest funds available are drawn first regardless of the year of award for program activity.

FTA encourages recipients to identify all the available New Freedom administrative funds they intend to use routinely in each annual grant application. However, recipients may accumulate the "entitlement" to New Freedom administrative funds within their period of availability to augment the funds available for a special administrative need in a subsequent year. Recipients may accumulate New Freedom administrative funds in the year of apportionment plus two years.

If a recipient includes program administration expenses in excess of the 10 percent in its grant application, it must document the unused New Freedom administrative funds from prior years available to augment the amount of New Freedom administrative funds in the current apportionment.

Allowable administrative costs may include, but are not limited to, general administrative and overhead costs, staff salaries, office supplies, and development of specifications for vehicles and equipment. Guidance on eligible costs is in Office of Management and Budget (OMB) Circular A-87 (codified at 2 CFR part 225). The program administration budget line item may also include technical assistance and planning activities, including allocations to subrecipients to support the local coordinated planning process.

These eligible program administrative costs may be used directly by the designated recipient or may be passed through by the designated recipient to subrecipients for administration, planning, or technical assistance purposes. This eligible activity can be awarded before the completion of the competitive selection process.

FTA will allow all or a portion of the administrative funds for JARC, New Freedom, and Section 5310 to be combined to support activities (such as coordinated planning) that are common to all three programs. Recipients may combine program administration funds into one administrative account, so long as the recipient uses the funds for costs associated with administering the 5310, JARC, and New Freedom Programs. However, FTA must still track the funds attributable to each program at the accounting classification code, Activity Line Item (ALI), and Financial Purpose Code Level in respective grants. As the recipient incurs expenses against the pooled funds for program administration, it can draw down the reimbursement against any grant that has undisbursed program administration funds.

11. ELIGIBLE ACTIVITIES. New Freedom Program funds are available for capital and operating expenses that support new public transportation services beyond those required by the Americans with Disabilities Act of 1990 (ADA) and new public transportation

alternatives beyond those required by the ADA designed to assist individuals with disabilities with accessing transportation services, including transportation to and from jobs and employment support services. For the purpose of the New Freedom Program, “new” service is any service or activity that was not operational on August 10, 2005, and did not have an identified funding source as of August 10, 2005, as evidenced by inclusion in the Transportation Improvement Plan (TIP) or the STIP. In other words, if not for the New Freedom Program, these projects would not have consideration for funding and proposed service enhancements would not be available for individuals with disabilities.

Maintenance of Effort: Recipients or subrecipients may not terminate ADA paratransit enhancements or other services funded as of August 10, 2005, in an effort to reintroduce the services as “new” and then receive New Freedom funds for those services.

Eligible projects funded with New Freedom funds may continue to be eligible for New Freedom funding indefinitely as long as the project(s) continue to be part of the coordinated plan.

Both new public transportation services and new public transportation alternatives are required to go beyond the requirements of the ADA and must (1) be targeted toward individuals with disabilities; and (2) meet the intent of the program by removing barriers to transportation and assisting persons with disabilities with transportation, including transportation to and from jobs and employment services.

The list of eligible activities is intended to be illustrative, not exhaustive. Recipients are encouraged to develop innovative solutions to meet the needs of individuals with disabilities in their communities.

- a. New Public Transportation Services Beyond the ADA. The following activities are examples of eligible projects meeting the definition of new public transportation.
 - (1) Enhancing paratransit beyond minimum requirements of the ADA. ADA complementary paratransit services can be eligible under New Freedom in several ways as long as the services provided meet the definition of “new:”
 - (a) Expansion of paratransit service parameters beyond the three-fourths mile required by the ADA;
 - (b) Expansion of current hours of operation for ADA paratransit services that are beyond those provided on the fixed-route services;
 - (c) The incremental cost of providing same day service;
 - (d) The incremental cost of making door-to-door service available to all eligible ADA paratransit riders, but not as a reasonable modification for individual riders in an otherwise curb-to-curb system;

- (e) Enhancement of the level of service by providing escorts or assisting riders through the door of their destination;
 - (f) Acquisition of vehicles and equipment designed to accommodate mobility aids that exceed the dimensions and weight ratings established for common wheelchairs under the ADA and labor costs of aides to help drivers assist passengers with over-sized wheelchairs. This would permit the acquisition of lifts with a larger capacity, as well as modifications to lifts with a 600 lb design load, and the acquisition of heavier-duty vehicles for paratransit and/or demand-response service; and
 - (g) Installation of additional securement locations in public buses beyond what is required by the ADA.
- (2) Feeder services. New “feeder” service (transit service that provides access) to commuter rail, commuter bus, intercity rail, and intercity bus stations, for which complementary paratransit service is not required under the ADA.
- (3) Making accessibility improvements to transit and intermodal stations not designated as key stations. Improvements for accessibility at existing transportation facilities that are not designated as key stations established under 49 CFR 37.47, 37.51, or 37.53, and that are not required under 49 CFR 37.43 as part of an alteration or renovation to an existing station, so long as the projects are clearly intended to remove barriers that would otherwise have remained. New Freedom funds are eligible to be used for new accessibility enhancements that remove barriers to individuals with disabilities so they may access greater portions of public transportation systems, such as fixed-route bus service, commuter rail, light rail and rapid rail. This may include:
- (a) Building an accessible path to a bus stop that is currently inaccessible, including curbcuts, sidewalks, accessible pedestrian signals or other accessible features,
 - (b) Adding an elevator or ramps, detectable warnings, or other accessibility improvements to a non-key station that are not otherwise required under the ADA,
 - (c) Improving signage, or wayfinding technology, or
 - (d) Implementation of other technology improvements that enhance accessibility for people with disabilities including Intelligent Transportation Systems (ITS).
- (4) Travel training. New training programs for individual users on awareness, knowledge, and skills of public and alternative transportation options available in their communities. This includes travel instruction and travel training services.

- b. New Public Transportation Alternatives Beyond the ADA. The following activities are examples of projects that are eligible as new public transportation alternatives beyond the ADA under the New Freedom Program:
- (1) Purchasing vehicles to support new accessible taxi, ride sharing, and/or vanpooling programs. New Freedom funds can be used to purchase and operate accessible vehicles for use in taxi, ridesharing and/or van pool programs provided that the vehicle has the capacity to accommodate a passenger who uses a “common wheelchair” as defined under 49 CFR 37.3, at a minimum, while remaining in his/her personal mobility device inside the vehicle, and meeting the same requirements for lifts, ramps and securement systems specified in 49 CFR part 38, subpart B.
 - (2) Supporting the administration and expenses related to new voucher programs for transportation services offered by human service providers. This activity is intended to support and supplement existing transportation services by expanding the number of providers available or the number of passengers receiving transportation services. Only new voucher programs or expansion of existing programs are eligible under the New Freedom Program. Vouchers can be used as an administrative mechanism for payment of alternative transportation services to supplement available public transportation. The New Freedom Program can provide vouchers to individuals with disabilities to purchase rides, including: (a) mileage reimbursement as part of a volunteer driver program; (b) a taxi trip; or (c) trips provided by a human service agency. Providers of transportation can then submit the voucher for reimbursement to the recipient for payment based on pre-determined rates or contractual arrangements. Transit passes for use on existing fixed route or ADA complementary paratransit service are not eligible. Vouchers are an operational expense which requires a 50/50 (Federal/local) match.
 - (3) Supporting new volunteer driver and aide programs. New volunteer driver programs are eligible and include support for costs associated with the administration, management of driver recruitment, safety, background checks, scheduling, coordination with passengers, and other related support functions, mileage reimbursement, and insurance associated with volunteer driver programs. The costs of new enhancements to increase capacity of existing volunteer driver programs are also eligible. FTA notes that any volunteer program supported by New Freedom must meet the requirements of both “new” and “beyond the ADA.” FTA encourages communities to offer consideration for utilizing all available funding resources as an integrated part of the design and delivery of any volunteer driver/aide program.
 - (4) Supporting new mobility management and coordination programs among public transportation providers and other human service agencies providing transportation. Mobility management is an eligible capital cost. Mobility management techniques may enhance transportation access for populations beyond

those served by one agency or organization within a community. For example, a non-profit agency could receive New Freedom funding to support the administrative costs of sharing services it provides to its own clientele with other individuals with disabilities and coordinate usage of vehicles with other non-profits, but not the operating costs of the service. Mobility management is intended to build coordination among existing public transportation providers and other transportation service providers with the result of expanding the availability of service. Mobility management activities may include:

- (a) The promotion, enhancement, and facilitation of access to transportation services, including the integration and coordination of services for individuals with disabilities, older adults, and low-income individuals;
- (b) Support for short term management activities to plan and implement coordinated services;
- (c) The support of State and local coordination policy bodies and councils;
- (d) The operation of transportation brokerages to coordinate providers, funding agencies and customers;
- (e) The provision of coordination services, including employer-oriented Transportation Management Organizations' and Human Service Organizations' customer-oriented travel navigator systems and neighborhood travel coordination activities such as coordinating individualized travel training and trip planning activities for customers;
- (f) The development and operation of one-stop transportation traveler call centers to coordinate transportation information on all travel modes and to manage eligibility requirements and arrangements for customers among supporting programs; and
- (g) Operational planning for the acquisition of intelligent transportation technologies to help plan and operate coordinated systems inclusive of Geographic Information Systems (GIS) mapping, Global Positioning System Technology, coordinated vehicle scheduling, dispatching and monitoring technologies as well as technologies to track costs and billing in a coordinated system and single smart customer payment systems (acquisition of technology is also eligible as a stand alone capital expense).

12. FEDERAL/LOCAL MATCHING REQUIREMENTS.

- a. General. New Freedom funds may be used to finance capital and operating expenses. The Federal share of eligible capital and planning costs may not exceed 80 percent of the net cost of the activity. The Federal share of the eligible operating costs may not exceed 50 percent of the net operating costs of the activity. Recipients may use up to

10 percent of their apportionment to support program administrative costs including administration, planning, and technical assistance, which may be funded at 100 percent Federal share.

The local share of eligible capital costs shall be no less than 20 percent of the net cost of the activity, and the local share for eligible operating costs shall be no less than 50 percent of the net operating costs. All of the local share must be provided from sources other than Federal DOT funds. Some examples of sources of local match which may be used for any or all of the local share include: State or local appropriations; other non-DOT Federal funds; dedicated tax revenues; private donations; revenue from human service contracts; toll revenue credits; and net income generated from advertising and concessions. Non-cash share such as donations, volunteer services, or in-kind contributions is eligible to be counted toward the local match as long as the value of each is documented and supported, represents a cost which would otherwise be eligible under the program, and is included in the net project costs in the project budget.

Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide local match for New Freedom operating assistance. In either case, the cost of providing the contract service is included in the total project cost. No FTA program funds can be used as a source of local match for other FTA programs, even when used to contract for service.

- b. Exceptions. The Federal share is 90 percent for vehicle-related equipment and facilities required by the Clean Air Act (CAA) or the Americans with Disabilities Act (ADA). It is only the incremental cost of the equipment or facility required by the CAA or ADA that may be funded at 90 percent, not the entire cost of the vehicle or facility, even if the vehicle or facility is purchased for use in service required by the ADA or CAA. Designated recipient wishing to apply for assistance at the higher match ratio should consult the FTA regional office for further guidance regarding methods of computing the incremental cost before submitting an application.
- c. Use of Other Federal Funds. Local match may be derived from other Federal programs that are eligible to be expended for transportation, other than funds from DOT programs. Examples of types of programs that are potential sources of local match include: employment, training, aging, medical, community services, and rehabilitation services. To be eligible for local match for FTA funds, the other Federal funds must be used for activities included in the total net project costs of the FTA grant. Expenditure of other Federal funds for transportation outside of the scope of the project cannot be applied as a credit for local match in the FTA grant. Specific program information for other types of Federal funding is available at www.unitedweride.gov.

13. LABOR PROTECTIONS. Title 49 U.S.C. 5333(b) requires that, as a condition of assistance from FTA, fair and equitable arrangements must be made to protect the interests of employees affected by such assistance. The Department of Labor (DOL) is responsible under Federal law for the administration of Section 5333(b).

The employee protection requirements are applicable to only those Federal transit programs and activities specifically enumerated in Section 5333(b). Since the New Freedom Program is not included in that list, grants awarded under these programs cannot be conditioned on compliance with Section 5333(b), and Section 5333(b) does not apply to grants to recipients under the New Freedom Program.

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CHAPTER IV

PROGRAM DEVELOPMENT

1. COORDINATION REQUIREMENTS. Title 49 U.S.C. 5317, as amended by SAFETEA-LU, requires a recipient of New Freedom funds to certify that projects selected are derived from a locally developed, coordinated public transit-human services transportation plan developed through a process that includes representatives of public, private and non-profit transportation and human service providers, participation by the public, and representatives addressing the needs of individuals with disabilities. (See Chapter V of this circular for further information.) This coordinated transportation plan should be prepared through a process that is consistent with the applicable metropolitan or statewide planning process, as described below. Transit service and demographic information developed and used in the broader metropolitan and statewide processes can provide a useful starting point for the more detailed review that will take place in preparing the coordinated plan. Similarly, the extensive public participation and stakeholder consultation provisions of metropolitan and statewide planning can provide a useful context and basis for the more focused local public involvement involved in preparing the coordinated plan. For these reasons, FTA strongly encourages coordination and consistency between the local coordinated public transit-human services transportation plan and metropolitan or statewide transportation planning processes, as described in 23 CFR part 450 and 49 CFR part 613.
2. PLANNING REQUIREMENTS. To be eligible for funding, New Freedom projects in urbanized areas must be included in the Metropolitan Transportation Plan prepared and approved by the metropolitan planning organization (MPO), the Transportation Improvement Program (TIP) approved jointly by the MPO and the Governor, and the Statewide Transportation Improvement Program (STIP) developed by a State and jointly approved by FTA and 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. Areas may choose to include project level information or more aggregated program level information. For purposes of convenience, the recipient may group its planned expenditures of New Freedom funds into statewide or metropolitan area-wide projects, such as vehicle acquisitions or services contracted for rural and urban recipients, and administration costs. All projects must adhere to the requirements of 49 U.S.C. 5303 and 5304. Please see Appendix G for a description of how the various planning processes relate to one another.
3. COMPETITIVE SELECTION PROCESS. A recipient of funds shall conduct a competitive selection process that is separate from, but coordinated with, the planning process. The competition allocates funding to the designated recipient and subrecipients to implement New Freedom projects. Recipients may not allocate/suballocate New Freedom funds

without conducting a competitive selection process. Title 49 U.S.C. 5317, as amended by SAFETEA-LU, provides the following:

(d) Competitive Process for Grants to Subrecipients.— (1) Areawide solicitations.—A recipient of funds apportioned under subsection (c)(1)(A) [urbanized areas with a population over 200,000] shall conduct, in cooperation with the appropriate metropolitan planning organization [MPO], an areawide solicitation for applications for grants to the recipient and subrecipients under this Section. (2) Statewide solicitation.—A recipient of funds apportioned under subsection (c)(1)(B) [urbanized areas with a population of less than 200,000] or (c)(1)(C) [Other Than Urbanized areas] shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this Section.

Note: The designated recipient is responsible for conducting the competitive selection process. However, the designated recipient may establish alternative arrangements to administer and conduct the competitive process. For example, a designated recipient could assign an MPO to conduct the competitive selection, even if it is not the designated recipient. Alternatively, the designated recipient, through interagency agreement or third party contracts, may provide administrative management and oversight of the competitive selection process.

- a. Role of the Designated Recipient in Competitive Selection. The agency identified as the designated recipient is responsible for conducting the competitive selection. The competitive selection process should be transparent, as described below. Further, the designated recipient must certify that the distribution of funds is “fair and equitable” as required by 49 U.S.C. 5317(e)(2). (See paragraph five of this chapter).
- b. Conducting a Competitive Selection Process. Title 49 U.S.C. 5317 requires that selected projects be derived from the locally developed coordinated plan and meet the intent of the program. The law further requires that the designated recipient conduct the competitive selection process. In large urbanized areas, this process is conducted in cooperation with the MPO.
 - (1) Frequency of competition. Competitions can be conducted annually or at intervals not to exceed three years as determined by the designated recipient based on local needs. Designated recipients may choose to fund projects that will be implemented over multiple years. There should be opportunities to update coordinated plans to align with the competitive selection process. In addition to identified need, designated recipients should work with State and/or local coordinating bodies to consider funding levels, adequate time for implementation, duration of projects, cost of projects, and other factors when setting timeframes for competitive cycles. Note: The frequency of the competition differs from the period of project

performance. Projects may be selected for funding that cover multiple years of operating.

- (2) Selection process. The designated recipient is responsible for selecting projects. Projects may be selected that are implemented over multiple years, and the designated recipient may select contingency projects that could be funded if any competitively selected project is deleted from the program of projects.

The designated recipient may use different approaches to conduct a competition. For example, the designated recipient may conduct a competition that selects from a list of specific projects/activities to be funded, communities to implement projects from the area's plan, or specific agencies/organizations to provide services to meet specific needs that have been identified and prioritized through the local planning process. In establishing the process, the designated recipient shall determine and publicize the selection criteria. The examples below illustrate some different ways the competitive selection process may be conducted. This list is not intended to be an exhaustive list of all allowable selection processes.

Example 1: The State publishes an announcement for New Freedom project proposals or proposals for all funding sources available to the State. The State next evaluates projects submitted from small urbanized and nonurbanized areas using selection criteria stated in the announcement. The State may choose to have separate competitions for projects in urbanized areas under 200,000 in population and projects in nonurbanized areas or one unified competition (respecting funding limitations for each population category). The State selects projects to be funded and announces New Freedom project selections.

Example 2: The State solicits applications from small urbanized areas or nonurbanized areas for funding of FTA eligible activities in each area's local coordinated plan. The State evaluates the applications based on criteria such as the quality and effectiveness of the coordinated process, and identification of needs and solutions that address the needs. The State then selects areas to receive funding for New Freedom projects derived from the local coordinated plan. In this example, the specific projects being funded in an area are determined locally, however, the State competitively selects areas that will receive New Freedom funding based on criteria such as the quality of the coordinated planning process and evidence of broad outreach.

Example 3: The designated recipient in an urbanized area over 200,000 in population may rely on the priorities identified for New Freedom funding in the locally developed, coordinated public transit-human services transportation plan and publish a solicitation for grant applications from agencies interested in providing any of the New Freedom projects identified in the plan. The designated recipient conducts the competition in cooperation with the MPO utilizing criteria established by the designated recipient. A designated recipient that is not the MPO

may choose to utilize the MPO to conduct the competitive selection process. The designated recipient selects subrecipient proposals to fund that implement the projects identified in the plan.

Example 4: The designated recipient publishes an announcement for New Freedom project proposals to address a specific need identified and prioritized in the coordinated plan, such as increased same-day mobility options for people who use wheelchairs. Grant proposals might include a volunteer driver program, purchase of accessible taxis, or same-day demand-response service provided by the local transit agency. The designated recipient evaluates proposals submitted using the selection criteria stated in the announcement, selects the project(s) to be funded and announces the project selections.

Example 5: The designated recipient competes specific projects to meet the needs described in the coordinated plan, such as increased same-day mobility options for people who use wheelchairs. The coordinated plan prioritized accessible taxis as the most appropriate service to meet that need. The designated recipient publishes an announcement requesting proposals for accessible taxi services, evaluates proposals submitted using the selection criteria stated in the announcement, and selects the subrecipients to be funded and announces the project selections.

The competitive selection process is not the same as third party contracting, but rather the selection of grants to the recipient and subrecipients. If it is determined that a recipient or subrecipient will contract for goods and services, the entity receiving the funds must follow FTA procurement procedures established within the current FTA Circular 4220.1 in a separate process, regardless of how a project is selected.

- (3) Public notification. The designated recipient should publicly advertise the availability of funds and selection criteria in formats and forums appropriate to the potential recipients and subrecipients. Designated recipients should also publish a list of selected projects following the competitive selection process.
- (4) Strategies to enhance competition. The following strategies are suggested useful practices to ensure fairness and maximize the relationship between the coordinated planning process and competitive selection:
 - (a) Assure greater inclusion at the onset of the coordinated planning process to allow private sector participation or participation by others who have not been involved in the MPO planning process;
 - (b) Provide for transparency and documentation in both the coordinated planning process and the competitive selection process;
 - (c) Publish an announcement that lays out program requirements and the process for receiving funds, which may help communities initiate planning activities

as well as lay out the recipient's timeline for the competitive selection process;

- (d) Rank projects using any of the following approaches: peer review; third party review; or a panel of planning partners; and
 - (e) If the subrecipient is not the service provider, the subrecipient should select providers of services through established third party contracting procedures that transit agencies utilize for specialized service contracts or interagency agreements.
- (5) Evaluation criteria and project selection. Designated recipients may consider establishing an external peer review process for developing criteria, evaluating proposals, and project selection. Examples of potential criteria may include selecting projects that: (1) address gaps in current service provisions for targeted communities as defined in the local coordinated plan; (2) make use of available resources and leverage resources to the extent possible; (3) coordinate with other Federal programs (e.g., coordinated services, financial partnership); (4) can be achieved with the given technical capacity of the project sponsor; (5) geographic/demographic factors; and (6) show evidence of broad solicitation for input (coordinated planning process).
4. RELATIONSHIP BETWEEN PLANNING AND COMPETITIVE SELECTION: The schematic below illustrates the relationship between the coordinated plan and the metropolitan and statewide planning processes. It is important to note that the Program of Projects (POP) flows out of the competitive selection process, and areas may feed the specific projects listed in the POP into the area's TIP or STIP. See the figure below for a graphical representation of this relationship.
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5. FAIR AND EQUITABLE DISTRIBUTION OF FUNDS. Regardless of the competitive selection process used, it is important to demonstrate that the competition was open and transparent resulting in a fair and equitable distribution of funds. FTA notes that equitable distribution refers to equal access to, and equal treatment by, a fair and open competitive process. The result of such a process may not be an “equal” allocation of resources among projects or communities. It is possible that some areas may not receive any funding at the conclusion of the competitive selection process. Fair and equitable distribution will be addressed in the State Management Review for State administered programs and in the Triennial Review in urbanized areas over 200,000 in population and in other FTA oversight activities. Designated recipients must document the competitive selection process as part of a State/Program Management Plan (SMP/PMP) and designated recipients in urbanized areas must document the competitive selection process in the PMP (see Chapter VII). In addition, the designated recipient must certify that each year’s funds were distributed on a fair and equitable basis.

FTA’s guidance for compliance with Title VI of the Civil Rights Act of 1964 applies to the New Freedom Program. To ensure compliance with U.S. Department of Transportation (DOT) civil rights regulations (49 CFR part 21), and the DOT Order on Environmental Justice, FTA requires grantees to document that they distribute FTA funds without regard to race, color, and national origin. Designated recipients shall include strategies for complying with Title VI in their management plan. (See the current FTA Circular 4702.1.)

6. PROGRAM OF PROJECTS (POP). The program of projects (POP) identifies the subrecipients and projects for which the State or designated recipient is applying for financial assistance. The POP submitted to FTA for approval lists the subrecipients and indicates whether they are private non-profit agencies, governmental authorities, or private operators of public transportation services, and in the case of a State application, designates whether they serve urbanized or nonurbanized areas, and identifies any Indian tribal agencies. In addition, the program of projects includes a brief description of the projects, total project costs and Federal share for each project, and the amount of funds required for planning and program administration. The total Federal funding level for the program of projects cannot exceed the total amount of New Freedom funds available. Upon submission of the annual program of projects and other application requirements, FTA will review, approve, and obligate funds for the total amount of funds requested. The projects within the program of projects should be implemented within the year of apportionment plus two years. Grants not fully implemented within the year of apportionment plus two years are subject to being terminated and closed out by FTA and the remaining funds de-obligated.

As stated above, eligibility for funding under most FTA and FHWA programs requires projects to be listed in the approved TIP and/or STIP. Therefore, projects in the POP must be included in the applicable TIP and/or STIP.

So that FTA can comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L 109-282), enacted September 26, 2006, the designated recipient must provide

FTA with the following information for each subrecipient: the name of the entity receiving the award, the amount of the award, the location of the entity receiving the award and the primary location of performance under the award, including the city, State, and Congressional district. The designated recipient may choose to submit this information as a separate attachment in TEAM or to include the information in the POP.

7. CATEGORIES OF APPROVAL. FTA's approval of a program of projects does not reflect unconditional approval of all projects within the program. Nor does FTA's approval of a program of projects reflect unconditional approval of all prospective subrecipients identified in the program. FTA recognizes that not all projects in a POP may be at the same stage of development. FTA also recognizes that all subrecipients identified in the program of projects may not yet be in compliance with all applicable Federal requirements. To expedite grant award, FTA allows designated recipients to separate projects and funds included in its program of projects into two different categories, depending on how completely Federal requirements have been met.
 - a. Category A. This category includes projects certified by the designated recipient as having met all the Federal statutory and administrative requirements for project approval applicable to both the project activities and subrecipient that will carry out those activities. FTA's approval of Category A projects is unconditional upon grant award. When FTA executes the grant, the designated recipient may start drawing down funds to implement projects in Category A. FTA expects most, if not all, of the projects included in the designated recipient's program of projects to be in this category.
 - b. Category B. Projects in Category B are those projects the designated recipient anticipates approving during the current year, but which have not met all of the Federal statutory or administrative requirements or are proposed to be implemented by a subrecipient that has not yet met all applicable Federal requirements. Category B can also include contingency projects that may be funded if any competitively selected project is deleted from the program of projects. However, contingency projects should be shown at the zero funding level and not calculated in the total program costs. When the necessary Federal requirements have been satisfied for a project, FTA's approval of that project becomes unconditional, and the project may be advanced to Category A. Cash drawdowns for that project may commence after the designated recipient advances it to Category A. If a designated recipient can list all its projects in Category A, it would not list any projects in Category B except contingency projects.
8. APPROVAL. FTA is committed to promptly processing grants upon receipt of a complete and acceptable grant application. FTA awards grants and obligates funds for the total amount the designated recipient requests for both of these categories. FTA grant award constitutes FTA approval of the designated recipient's annual program of projects.

FTA approval of the New Freedom Program of projects does not constitute unqualified approval of each project in the program. Grant award does constitute FTA approval of

those projects in Category A. Thus the designated recipient may draw down Federal funds to reimburse expenses incurred for Category A projects immediately upon execution of the grant agreement.

Grant award also constitutes FTA's approval of those projects in Category B on the condition that all applicable Federal requirements will be met. The designated recipient must ensure that those requirements are met and advance the projects to Category A before funds can be drawn down to support those projects.

9. REVISIONS TO PROGRAM OF PROJECTS. Prior FTA approval is not required to advance projects from Category B to Category A, or to reallocate funds among projects included in the approved POP, so long as any single change does not exceed 20 percent of the affected project and is consistent with the competitive selection process and the local coordinated plan from which the project was derived. Any other changes to the POP require prior approval by FTA. The grantee's request for approval should include documentation that the proposed changes in the POP are consistent with the competitive selection process and that all projects are derived from a locally developed coordinated plan.

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

10. CERTIFICATION AND ASSURANCES. FTA's annual certifications and assurances include basic requirements for Section 5310, JARC and New Freedom programs, as categories 17, 19 and 20. The designated recipient should maintain adequate files documenting the basis for all assurances that it makes to FTA.

Each fiscal year, FTA publishes the required certifications and assurances in the *Federal Register* and updates the certifications and assurances in the Transportation Electronic Award and Management (TEAM) system. This notice indicates which certifications and assurances apply to all grantees or to certain kinds of awards, and which are required for grants under specific sections.

The designated recipient electronically submits the appropriate certifications and assurances each fiscal year for all active grants and new grants that it expects FTA to make during that fiscal year. Recipients should use the most recent version of the current year notice for a list of required certifications and assurances FTA has issued. Recipients can find the current list in TEAM.

11. COSTS INCURRED BEFORE NEW FREEDOM GRANT APPROVAL. Costs may be incurred under the New Freedom Program before FTA approval of a grant under certain circumstances. Authority to incur any eligible New Freedom Program costs in advance of possible future Federal participation must comply with all Federal requirements. FTA extends automatic pre-award authority to the 10 percent of funds that can be used for program administrative costs including planning, administration and technical assistance. In order for other pre-award costs to be eligible for subsequent reimbursement, the project must have met all FTA statutory, procedural and contractual requirements, including being derived from a locally developed coordinated plan and competitively selected by the designated recipient. Specific information is included in FTA's annual apportionment Notice. See Chapter VIII, Paragraph 14 for more details on pre-award authority.

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CHAPTER V

COORDINATED PLANNING

1. THE COORDINATED PUBLIC TRANSIT-HUMAN SERVICES TRANSPORTATION PLAN. Federal transit law, as amended by SAFETEA-LU, requires that projects selected for funding under the Elderly Individuals and Individuals with Disabilities (Section 5310), Job Access and Reverse Commute (JARC), and New Freedom programs be “derived from a locally developed, coordinated public transit-human services transportation plan” and that the plan be “developed through a process that includes representatives of public, private, and non-profit transportation and human services providers and participation by members of the public.” The experiences gained from the efforts of the Federal Interagency Coordinating Council on Access and Mobility (CCAM), and specifically the United We Ride (UWR) Initiative, provide a useful starting point for the development and implementation of the local public transit-human services transportation plan required under the Section 5310, JARC and New Freedom Programs. Many States have established UWR plans that may form a foundation for a coordinated plan that includes the required elements outlined in this chapter and meets the requirements of 49 U.S.C. 5317.
2. DEVELOPMENT OF THE COORDINATED PUBLIC TRANSIT-HUMAN SERVICES TRANSPORTATION PLAN.
 - a. Overview. A locally developed, coordinated, public transit-human services transportation plan (“coordinated plan”) identifies the transportation needs of individuals with disabilities, older adults, and people with low incomes, provides strategies for meeting those local needs, and prioritizes transportation services for funding and implementation. Local plans may be developed on a local, regional, or statewide level. The decision as to the boundaries of the local planning areas should be made in consultation with the State, designated recipient and the metropolitan planning organization (MPO), where applicable. The agency leading the planning process is decided locally and does not have to be the designated recipient.

In urbanized areas where there are multiple designated recipients, there may be multiple plans and each designated recipient will be responsible for the competitive selection of projects in the designated recipient’s area. A coordinated plan should maximize the programs’ collective coverage by minimizing duplication of services. Further, a coordinated plan must be developed through a process that includes representatives of public and private and non-profit transportation and human services transportation providers, and participation by members of the public. Members of the public should include representatives of the targeted population(s) including individuals with disabilities, older adults, and people with low incomes. While the plan is only required in communities seeking funding under one or more of the three specified FTA programs, a coordinated plan should also incorporate activities offered under other programs sponsored by Federal, State, and local agencies to greatly strengthen its impact.

- b. Required Elements. Projects competitively selected for funding shall be derived from a coordinated plan that minimally includes the following elements at a level consistent with available resources and the complexity of the local institutional environment:
- (1) An assessment of available services that identifies current transportation providers (public, private, and non-profit);
 - (2) An assessment of transportation needs for individuals with disabilities, older adults, and people with low incomes. This assessment can be based on the experiences and perceptions of the planning partners or on more sophisticated data collection efforts, and gaps in service (Note: If a community does not intend to seek funding for a particular program (Section 5310, JARC, or New Freedom), then the community is not required to include an assessment of the targeted population in its coordinated plan);
 - (3) Strategies, activities and/or projects to address the identified gaps between current services and needs, as well as opportunities to improve efficiencies in service delivery; and
 - (4) Priorities for implementation based on resources (from multiple program sources), time, and feasibility for implementing specific strategies and/or activities identified.

Note: FTA will consider plans developed before the issuance of final program circulars to be an acceptable basis for project selection for FY 2007 if they meet minimum criteria. Plans for FY 2007 should include 1) an assessment of available services; 2) an assessment of needs; and 3) strategies to address gaps for target populations; however, FTA recognizes that initial plans may be less complex in one or more of these elements than a plan developed after the local coordinated planning process is more mature. Addendums to existing plans to include these elements will also be sufficient for FY 2007. Plans must be developed in good faith in coordination with appropriate planning partners and with opportunities for public participation.

- c. Local Flexibility in the Development of a Local Coordinated Public Transit-Human Services Transportation Plan. The decision for determining which agency has the lead for the development and coordination of the planning process should be made at the State, regional, and local levels. FTA recognizes the importance of local flexibility in developing plans for human service transportation. Therefore, the lead agency for the coordinated planning process may be different from the agency that will serve as the designated recipient. Further, FTA recognizes that many communities have conducted assessments of transportation needs and resources regarding individuals with disabilities, older adults, and/or people with low incomes. FTA also recognizes that some communities have taken steps to develop a comprehensive, coordinated, human service transportation plan either independently or through United We Ride efforts. FTA supports communities building on existing assessments, plans and action items.

As all new Federal requirements must be met, however, communities may need to modify their plans or processes as necessary to meet these requirements. FTA encourages communities to consider inclusion of new partners, new outreach strategies, and new activities related to the targeted programs and populations.

Plans will vary based upon the availability of resources and the existence of populations served under these programs. A rural community may develop its plans based on perceived needs emerging from the collaboration of the planning partners, whereas a large urbanized community may use existing data sources to conduct a more formal analysis to define service gaps and identify strategies for addressing the gaps.

This type of planning is also an eligible activity under three other FTA programs—the Metropolitan Planning (Section 5303), Statewide Planning (Section 5304), and Urbanized Area Formula (Section 5307) programs, all of which may be used to supplement the limited (10 percent) planning and administration funding under this program. Other resources may also be available from other entities to fund coordinated planning activities. All “planning” activities undertaken in urbanized areas, regardless of the funding source, must be included in the Unified Planning Work Program (UPWP) of the applicable MPO.

- d. Tools and Strategies for Developing a Coordinated Plan. States and communities may approach the development of a coordinated plan in different ways. The amount of available time, staff, funding, and other resources should be considered when deciding on specific approaches. The following is a list of potential strategies for consideration.
 - (1) Community planning session. A community may choose to conduct a local planning session with a diverse group of stakeholders in the community. This session would be intended to identify needs based on personal and professional experiences, identify strategies to address the needs, and set priorities based on time, resources, and feasibility for implementation. This process can be done in one meeting or over several sessions with the same group. It is often helpful to identify a facilitator to lead this process. Also, as a means to leverage limited resources and to ensure broad exposure, this could be conducted in cooperation or coordination with the applicable metropolitan or statewide planning process.
 - (2) Self-assessment tool. *The Framework for Action: Building the Fully Coordinated Transportation System*, developed by FTA and available at www.unitedweride.gov, helps stakeholders realize a shared perspective and build a roadmap for moving forward together. The self-assessment tool focuses on a series of core elements that are represented in categories of simple diagnostic questions to help groups in States and communities assess their progress toward transportation coordination based on standards of excellence. There is also a *Facilitator’s Guide* that offers detailed advice on how to choose an existing group or construct an ad hoc group. In addition, it describes how to develop elements of a plan, such as identifying the needs of targeted populations, assessing gaps and

duplications in services, and developing strategies to meet needs and coordinate services.

- (3) Focus groups. A community could choose to conduct a series of focus groups within communities that provides opportunity for greater input from a greater number of representatives, including transportation agencies, human service providers, and passengers. This information can be used to inform the needs analysis in the community. Focus groups also create an opportunity to begin an ongoing dialogue with community representatives on key issues, strategies, and plans for implementation.
 - (4) Survey. The community may choose to conduct a survey to evaluate the unmet transportation needs within a community and/or available resources. Surveys can be conducted through mail, e-mail, or in-person interviews. Survey design should consider sampling, data collection strategies, analysis, and projected return rates. Surveys should be designed taking accessibility considerations into account, including alternative formats, access to the internet, literacy levels, and limited English proficiency.
 - (5) Detailed study and analysis. A community may decide to conduct a complex analysis using inventories, interviews, GIS mapping, and other types of research strategies. A decision to conduct this type of analysis should take into account the amount of time and funding resources available, and communities should consider leveraging State and MPO resources for these undertakings.
3. PARTICIPATION IN THE COORDINATED PUBLIC TRANSIT-HUMAN SERVICES TRANSPORTATION PLANNING PROCESS. Recipients shall certify that the coordinated plan was 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 following possible strategies facilitate appropriate inclusion:
- a. Adequate Outreach to Allow for Participation. Outreach strategies and potential participants will vary from area to area. Potential outreach strategies could include

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. Conveners should note that not all potential participants have access to the Internet and they should not rely exclusively on electronic communications. It is useful to allow many ways to participate, including in-person testimony, mail, e-mail, and teleconference. 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.

- b. Participants in the Planning Process. Metropolitan and statewide planning under 49 U.S.C. 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 providers of transportation, representatives of transit users, and representatives of individuals with disabilities) and the organizations that should be involved in preparation of the coordinated plan.

The projects selected for funding under the Section 5310 , JARC, and New Freedom Programs must be “derived from a locally developed, coordinated public transit-human services transportation plan” that was “developed through a process that includes representatives of public, private, and non-profit transportation and human services providers and participation by members of the public.” The requirement for developing the local public transit-human services transportation plan is intended to improve services for people with disabilities, older adults, and individuals with low incomes. Therefore, individuals, groups and organizations representing these target populations should be invited to participate in the coordinated planning process. Consideration should be given to including groups and organizations such as the following in the coordinated planning process if present in the community:

- (1) Transportation partners:
 - (a) Area transportation planning agencies, including MPOs, Councils of Government (COGs), Rural Planning Organizations (RPOs), Regional Councils, Associations of Governments, State Departments of Transportation, and local governments;
 - (b) Public transportation providers (including Americans with Disabilities Act (ADA) paratransit providers and agencies administering the projects funded under FTA urbanized and nonurbanized programs);
 - (c) Private transportation providers, including private transportation brokers, taxi operators, van pool providers, school transportation operators, and intercity bus operators;

- (d) Non-profit transportation providers;
 - (e) Past or current organizations funded under the JARC, Section 5310, and/or the New Freedom Programs; and
 - (f) Human service agencies funding, operating, and/or providing access to transportation services.
- (2) Passengers and advocates:
- (a) Existing and potential riders, including both general and targeted population passengers (individuals with disabilities, older adults, and people with low incomes);
 - (b) Protection and advocacy organizations;
 - (c) Representatives from independent living centers; and
 - (d) Advocacy organizations working on behalf of targeted populations.
- (3) Human service partners:
- (a) Agencies that administer health, employment, or other support programs for targeted populations. Examples of such agencies include but are not limited to Departments of Social/Human Services, Employment One-Stop Services; Vocational Rehabilitation, Workforce Investment Boards, Medicaid, Community Action Programs (CAP), Agency on Aging (AoA); Developmental Disability Council, Community Services Board;
 - (b) Non-profit human service provider organizations that serve the targeted populations;
 - (c) Job training and placement agencies;
 - (d) Housing agencies;
 - (e) Health care facilities; and
 - (f) Mental health agencies.
- (4) Other:
- (a) Security and emergency management agencies;
 - (b) Tribes and tribal representatives;
 - (c) Economic development organizations;

- (d) Faith-based and community-based organizations;
- (e) Representatives of the business community (e.g., employers);
- (f) Appropriate local or State officials and elected officials;
- (g) School districts; and
- (h) Policy analysts or experts.

Note: Participation in the planning process will not bar providers (public or private) from bidding to provide services identified in the coordinated planning process. This planning process differs from the competitive selection process, and it differs from the development and issuance of a Request for Proposal (RFP) as described in the Common Grant Rule (49 CFR part 18).

- c. Levels of Participation. The suggested list of participants above does not limit participation by other groups, nor require participation by every group listed. Communities will have different types of participants depending on population and size of community, geographic location, and services provided at the local level. It is expected 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.

In addition, Federal, State, regional, and local policy makers, providers, and advocates should consistently engage in outreach efforts that enhance the coordinated process, because it is important that all stakeholders identify the opportunities that are available in building a coordinated system. To increase participation at the local levels from human service partners, State Department of Transportation offices are encouraged to work with their partner agencies at the State level to provide information to their constituencies about the importance of partnering with human service transportation programs and the opportunities that are available through building a coordinated system.

- d. Adoption of a Plan. As a part of the local coordinated planning process, the lead agency in consultation with participants should identify the process for adoption of the plan. A strategy for adopting the plan could also be included in the designated recipient's Program Management Plan (PMP) further described in Chapter VII.

FTA will not formally review and approve plans. The designated recipient's grant application (see Appendix A) will document the plan from which each project listed is derived, including the lead agency, the date of adoption of the plan, or other appropriate

identifying information. This may be done by citing the section of the plan or page references from which the project is derived.

4. RELATIONSHIP TO OTHER TRANSPORTATION PLANNING PROCESSES.

- a. Relationship Between the Coordinated Planning Process and the Metropolitan and Statewide Transportation Planning Processes. The coordinated plan can either be developed separately from the metropolitan and statewide transportation planning processes and then incorporated into the broader plans, or be developed as a part of the metropolitan and statewide transportation planning processes. If the coordinated plan is not prepared within the broader process, the lead agency for the coordinated plan should ensure coordination and consistency between the coordinated planning process and metropolitan or statewide planning processes. For example, planning assumptions should not be inconsistent.

Projects identified in the coordinated planning process, and selected for FTA funding through the competitive selection process must be incorporated into both the Transportation Improvement Program (TIP) and Statewide Transportation Improvement Program (STIP) in urbanized areas with populations of 50,000 or more; and incorporated into the STIP for nonurbanized areas under 50,000 in population. In some areas, where the coordinated plan or competitive selection is not completed in a timeframe that coincides with the development of the TIP/STIP, the TIP/STIP amendment processes will need to be utilized to include competitively selected projects in the TIP/STIP before FTA grant award.

The lead agency developing the coordinated plan should communicate with the relevant MPOs or State planning agencies at an early stage in plan development. States with coordination programs may wish to incorporate the needs and strategies identified in local coordinated plans into statewide coordination plans.

Depending upon the structure established by local decision-makers, the coordinated planning process may or may not become an integral part of the metropolitan or statewide transportation planning processes. State and local officials should consider the fundamental differences in scope, time horizon, and level of detail between the coordinated planning process and the metropolitan and statewide transportation planning processes. However, there are important areas of overlap between the planning processes, as well. Areas of overlap represent opportunities for sharing and leveraging resources between the planning processes for such activities as: (1) needs assessments based on the distribution of targeted populations and locations of employment centers, employment-related activities, community services and activities, medical centers, housing and other destinations; (2) inventories of transportation providers/resources, levels of utilization, duplication of service and unused capacity; (3) gap analysis; (4) any eligibility restrictions; and (5) opportunities for increased coordination of transportation services. Local communities may choose the method for developing plans that best fits their needs and circumstances.

- b. Relationship Between the Requirement for Public Participation in the Coordinated Plan and the Requirement for Public Participation in Metropolitan and Statewide Transportation Planning. SAFETEA-LU strengthened the public participation requirements for metropolitan and statewide transportation planning. Title 49 U.S.C. 5303(i)(5) and 5304(f)(3), as amended by SAFETEA-LU, require MPOs and States to engage the public and stakeholder groups in preparing transportation plans, TIPs, and STIPs. “Interested parties” include, among others, affected public agencies, private providers of transportation, representatives of users of public transportation, and representatives of individuals with disabilities.

MPOs and/or States may work with the lead agency developing the coordinated plan to coordinate schedules, agendas, and strategies of the coordinated planning process with metropolitan and statewide planning in order to minimize additional costs and avoid duplication of efforts. MPOs and States must still provide opportunities for participation when planning for transportation related activities beyond the coordinated public transit-human services transportation plan.

- c. Cycle and Duration of the Coordinated Plan. At a minimum, the coordinated plan should follow the update cycles for metropolitan transportation plans (i.e., four years in air quality nonattainment and maintenance areas and five years in air quality attainment areas). However, communities and States may update the coordinated plan to align with the competitive selection process based on needs identified at the local levels. States, MPOs, designated recipients, and public agencies that administer or operate major modes of transportation should set up a cycle that is conducive to and coordinated with the metropolitan and statewide planning processes, to ensure that selected projects are included in the TIP and STIP, to receive funds in a timely manner.
- d. Role of Transportation Providers that Receive FTA Funding Under the Urbanized and Other Than Urbanized Formula Programs in the Coordinated Planning Process. Recipients of Section 5307 and Section 5311 assistance are the “public transit” in the public transit-human services transportation plan and their participation is assumed and expected. Further, 49 U.S.C. 5307(c)(5) requires that, “Each recipient of a grant shall ensure that the proposed program of projects (POP) provides for the coordination of public transportation services ... with transportation services assisted from other United States Government sources.” In addition, 49 U.S.C. 5311(b)(2)(C)(ii) requires the Secretary of the DOT to determine that a State’s Section 5311 projects “provide the maximum feasible coordination of public transportation service ... with transportation service assisted by other Federal sources.” Finally, under the Section 5311 program, States are required to expend 15 percent of the amount available to support intercity bus service. FTA expects the coordinated planning process in rural areas to take into account human service needs that require intercity transportation.

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CHAPTER VI

PROGRAM MANAGEMENT AND ADMINISTRATIVE REQUIREMENTS

1. **GENERAL.** The basic grant management requirements for State and local governments are contained in the U.S. Department of Transportation (DOT) regulations, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” 49 CFR part 18. The comparable DOT rule for private non-profit organizations is “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,” 49 CFR part 19. Parts 18 and 19 are collectively known as the “common rule,” or the “common grant rule.” The provisions of these rules apply except where inconsistent with Federal statutes or authorizing legislation.
2. **PROGRAM ADMINISTRATIVE REQUIREMENTS.** The common rule identifies three areas in which the administrative requirements for State designated recipients and their subrecipients which are governmental authorities may differ from Federal requirements for local government designated recipients: equipment management, procurement, and financial management systems. The basic intent of establishing common requirements in these areas is to shift the emphasis from national uniformity to uniformity of procedures and requirements within a State, in order to provide greater flexibility to the States in standardizing the management of related State and Federal programs. The three areas are discussed in detail later in this chapter.

Part 18 permits States to pass down State procedures in these three areas to subrecipients which are governmental authorities. Part 19 does not allow States to pass down State procedures to subrecipients which are non-profit organizations. However, so long as the State procedures are not inconsistent with part 19, the State may apply the same procedures for all its subrecipients. The State may use procedures which are more restrictive than part 19, but State procedures may not be more permissive than part 19. The basic intent of part 19 is to establish nationally uniform procedures and requirements for private non-profit organizations that receive funds from multiple Federal agencies.

Designated recipients that are not States must follow the provisions in 49 CFR part 18. Designated recipients must ensure that subrecipients that are public providers of public transportation follow the requirements of part 18, and that subrecipients that are private organizations (whether non-profit or for-profit) follow the requirements of part 19.

Unless an issue is specifically addressed in this circular or in other Federal Transit Administration (FTA) guidance specific to the New Freedom Program, recipients should review the current FTA Circular 5010.1, “Grant Management Guidelines,” which provides guidance for other FTA programs, for project management issues not unique to New Freedom.

The designated recipient must enter into a written agreement with each subrecipient stating the terms and conditions of assistance by which the project will be undertaken and completed. If the designated recipient allows other designated recipients, in small urbanized areas, to apply directly to FTA for New Freedom funds that have been awarded through the competitive process, the designated recipient will enter into a supplemental agreement with each direct recipient. The supplemental agreement will be generated in the direct recipient's grant application to FTA and must be electronically signed off on by the designated recipient.

3. CAPITAL RESERVE ACCOUNTS. Recipients of New Freedom funded vehicles are permitted to establish capital reserve accounts to replace existing equipment as long as no FTA funds or proceeds from the sale or lease of FTA assisted property are placed in those accounts.
4. EQUIPMENT MANAGEMENT.
 - a. General. Under the common grant rule, States use, manage, and dispose of equipment acquired under a New Freedom grant in accordance with State laws and procedures. States are free to adopt the procedures established for other public entity subrecipients or use them as a guide in developing State procedures for equipment use, management, and disposition, but are not required to do so. States may use the same procedures for private non-profit subrecipients as for public entity subrecipients, so long as those procedures are consistent with 49 CFR part 19.

Common grant rule procedures and requirements for designated recipients that are not States, and their subrecipients are more explicit and can be found in 49 CFR 18.32.

- b. Vehicle Useful Life and Replacement Standards. In keeping with the intent of the common grant rule that States be given greater flexibility in managing and disposing of equipment, FTA elects not to apply to the State-administered Section 5311, Section 5310, Job Access and Reverse Commute (JARC) and New Freedom programs 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 Section 5311, 5310, JARC or New Freedom programs, consistent with the State's standards for equipment purchased with State funds. For these programs only, FTA permits State designated recipients to do the following:
 - (1) Establish their own minimum useful life standards for vehicles;
 - (2) Use their own procedures for determining fair market value; and
 - (3) Develop their own policies and procedures for maintenance and replacement of vehicles. Maintenance requirements and insurance coverage must be adequate to

protect the Federal interest in the vehicle within the useful life determined by the State.

Designated recipients that are not a State must adhere to the vehicle useful life criteria that are detailed in the current FTA Circulars 9030.1.

- c. Disposition. States and their subrecipients should follow State laws and procedures for disposing of equipment. States are not required to return to FTA proceeds from the disposition of equipment, regardless of the fair market value at the time the equipment is sold, but should follow their own procedures regarding the use of proceeds, so long as the proceeds remain in use for public transportation purposes. This blanket disposition instruction satisfies the provision of 49 CFR part 19 requiring private non-profit organizations to seek disposition instructions from the Federal awarding agency.

All other designated recipients and their subrecipients must follow the disposition procedures established in part 18 of the Common Rule at 49 CFR 18.32(e). Designated recipients are not required to return to FTA proceeds from the disposition of equipment where the fair market value of the per unit item being disposed of is less than \$5000.00 dollars. If the per unit fair market value exceeds \$5000.00 dollars, FTA will calculate the amount of proceeds it is owed based on the approved disposition method applied.

- d. Transfer of Property. Title 49 U.S.C. 5334(h)(1) through (3) allows facilities and equipment and other assets (including land) which are no longer needed for the purposes for which they were acquired to be transferred to a local governmental authority to be used for a public purpose with no further obligation to the Federal government, if authorized by the Secretary of Transportation (i.e., approved by FTA). Recipients should review the current FTA Circular 5010.1 and contact their FTA regional office for further information.
5. VEHICLE USE. FTA encourages maximum use of vehicles funded under the New Freedom Program. Consistent with the requirements of 49 CFR parts 18 and 19, vehicles are to be used first for program related needs for which a New Freedom grant is made and then to meet other transportation needs of other Federal programs or project needs, providing that they do not interfere with the project activities originally funded. If the equipment is no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency. Vehicles may be used:
 - a. For New Freedom Project and Program Purposes. The designated recipient must first use the equipment to deliver the New Freedom Program services or to provide additional services that are a part of the locally developed coordinated plan. The recipient shall use the vehicle in the project or program for which it was acquired as long as needed, even if the project does not continue to receive Federal funding.
 - b. For other Federal Programs or Project Purposes. During the period the vehicle is used to serve the project or program needs for which it was acquired, the designated

recipient or subrecipient shall make it available for use on other projects or programs, as long as such other use does not interfere with the service for which the vehicle was originally acquired. First preference for such other use will be given to other projects or programs sponsored by FTA, and second preference will be given to projects or programs previously or currently sponsored by other Federal agencies.

- c. When No Longer Needed for Original Project or Program Purposes. If the original subrecipient no longer needs the vehicle for the purposes for which it was acquired, the designated recipient may choose to keep the vehicle in use for New Freedom Program purposes by transferring the vehicle to another subrecipient. The transfer may be shown in the program of projects for any active grant. It does not have to be in the grant under which the equipment or property was originally funded. Once the vehicle is no longer needed for New Freedom Program purposes, the vehicle may be used first in connection with other FTA-sponsored activities, and then for activities sponsored by other Federal agencies.
6. TITLE TO VEHICLES. The designated recipient is encouraged to either hold title or record a lien against the title to vehicles. This is not mandatory, however. What is mandatory is that the designated recipient establish continuing control over the vehicles and accept the responsibility for continued public transit use of the vehicles, and more particularly use for New Freedom purposes, whether by itself or a subrecipient. If there is a substantial public transit benefit to be gained, such as low-cost, blanket insurance or bulk purchase of fuels or maintenance and supplies at rates cheaper than available to the subrecipient, then the designated recipient should consider retaining title in a governmental entity which can provide for the same and agrees to be bound by all the terms and conditions of the grant.
 7. SATISFACTORY CONTINUING CONTROL AND RESPONSIBILITY. When capital equipment or facilities are acquired, built, or improved, provisions must be made to assure satisfactory continuing control of that capital equipment and facilities. While the designated recipient may delegate these responsibilities to a subrecipient, the designated recipient is ultimately responsible for compliance with this requirement.
 8. PROCUREMENT.
 - a. General. When procuring property, supplies, equipment or services under an FTA grant, the State will follow the same policies and procedures it uses for procurements from its non-Federal funds, to the extent permitted by Federal statutes and regulations. While the Federal threshold for small purchases is currently \$100,000, the State may set a lower threshold for itself and its subrecipients. All governmental authority subrecipients may follow State procurement procedures. However, because of differences between 49 CFR part 18 and 49 CFR part 19, FTA third party contracting requirements are fewer for States and subrecipients that are local or tribal governments than for subrecipients that are private non-profit organizations. For the sake of consistency, the State may choose to use the more detailed FTA requirements included

in the current FTA Circular 4220.1 for all subrecipients as part of its State procurement procedures.

In some cases, a State may choose to grant New Freedom assistance to a subrecipient through an intermediary subrecipient. For example, for public policy reasons, the State might pass funds to a non-profit organization through a local governmental authority. The arrangement between the first tier and second tier subrecipient is not a third party contract if the ultimate subrecipient would otherwise be eligible under New Freedom to receive funds directly from the State and the ultimate subrecipient intends to use those funds to pursue its own New Freedom project.

Each recipient of FTA seeking Federal assistance to acquire property or services in support of its proposed project is requested to certify to FTA, in accordance with 49 CFR 18.36 that its procurements and procurement system will comply with all applicable third-party procurement provisions of Federal laws, regulations, and directives, except to the extent FTA has expressly approved otherwise in writing. Any applicant that fails to provide this certification may be determined ineligible for award of Federal assistance if FTA determines that its procurement practices and procurement system are incapable of compliance with Federal laws, regulations and directives governing procurements financed with FTA assistance.

Procurement procedures used by States and their public agencies and instrumentalities must comply with the following specific Federal procurement requirements:

- (1) States. State procurement practices must, at a minimum, comply with five specific Federal requirements contained in the current FTA Circular 4220.1. These include the following: (1) for rolling stock, a five year limitation on contract period of performance; (2) a requirement for full and open competition; (3) a prohibition against geographic preferences; (4) the use of Brooks Act procedures for procurement of architectural and engineering services if the State has not adopted a statute governing procurement of such services; and (5) inclusion in contracts of all Federal clauses required by Federal statutes and Executive Orders and their implementing regulations. These clauses are identified in specific Federal regulations cited in FTA's Master Agreement and incorporated by reference into the grant agreement. Additional technical assistance for third party contracting is available in FTA's "Best Practices Procurement Manual," which can be found online at <http://www.fta.dot.gov/ftahelpline/index.htm>.
- (a) Subrecipients that are Public Entities. Subrecipients that are public entities such as local or Indian tribal governments must comply with the same Federal requirements governing State procurements. States are responsible for ensuring that subrecipients are aware of and comply with Federal requirements.
- (b) Subrecipients that are Private Organizations. Subrecipients that are private organizations (whether non-profit or for-profit) must comply with FTA

procurement requirements contained in the current FTA Circular 4220.1. States are responsible for ensuring that private subrecipients are aware of and comply with these additional requirements.

- (2) Designated Recipients That Are Not States. Other recipients and their subrecipients must comply with FTA procurement requirements at 49 CFR part 18 and guidance contained in the current FTA Circular 4220.1.
- b. Pre-Award and Post-Delivery Reviews. Procurements for vehicles, other than sedans or unmodified vans, must be audited in accordance with 49 CFR part 663, “Pre-Award and Post-Delivery Audits of Rolling Stock Purchases.” Additional guidance is available in the manual, “Conducting Pre-Award and Post-Delivery Reviews for Bus Procurement” on FTA’s website: http://www.fta.dot.gov/laws/leg_reg_5423.html. The regulation requires any recipient or subrecipient that purchases rolling stock for use in revenue service with funds obligated after October 24, 1991, to conduct a pre-award and post delivery review to assure compliance with its bid specifications, Buy America requirements, and Federal motor vehicle safety requirements, and to complete specific certifications. Purchase of more than 20 vehicles for use in areas under 200,000 in population (more than 10, for large urbanized areas), other than unmodified vans or sedans, requires in-plant inspection. In the case of consolidated procurements on behalf of multiple subrecipients, the in-plant inspection requirement is triggered only if any single subrecipient will receive more than 10 or more than 20 vehicles, depending on area size.
- c. New Model Bus Testing. All new and modified bus models must be tested at the FTA sponsored test facility in Altoona, Pennsylvania, before FTA funds can be expended for their purchase (49 CFR part 665). This requirement applies to all buses and modified vans procured with FTA funds. It does not apply to unmodified vans, including vans with raised roofs or lifts installed in strict conformance with the original equipment manufacturer modification guidelines. A “new bus model” is defined as a model that has not been used in public transportation service in the United States before October 1, 1988, or a model that has been used in such service but which, after September 30, 1988, is being produced with a major change in configuration or components. A “major change in configuration” is defined as a change which may have a significant impact on vehicle handling and stability or structural integrity. A “major change in components” is defined as a change in one or more of the vehicle’s major components such as the engine, transmission, suspension, axle, or steering.

Purchasers of new model buses should ensure that the manufacturer has complied with the testing requirement by requesting a copy of the bus testing report from the Altoona Bus Research and Testing Center, 2237 Old Route 220 North, Duncansville, PA 16635. The center’s telephone number is 814-695-3404. Bus testing reports may also be downloaded from the Bus Testing Database at www.altoonabustest.com. This website also offers users the ability to search, filter, display, and export selected data from tested buses. Before expending any FTA funds for a new model bus, the

purchaser must certify that it has obtained a copy of the official bus testing report. Information in the reports may be useful to operators throughout the vehicle procurement process, particularly when writing specifications.

- d. Buy America. Title 49 U.S.C. 5323(j) provides that, with exceptions, Federal funds may not be obligated for public transportation projects unless steel, iron, and manufactured products used in such projects are produced in the United States. New Freedom designated recipients and subrecipients must conform with FTA regulations, 49 CFR part 661, and any amendments thereto. Buy America requirements apply to all purchases, including materials or supplies funded as operating costs, if the purchase exceeds the threshold for small purchases (currently \$100,000).

A manufacturer or supplier of steel, iron, or manufactured goods may be permitted to correct, after bid opening, an incomplete certification or a certification of noncompliance under certain circumstances if submission of the incorrect certification was the result of an inadvertent or clerical error. In addition, 49 U.S.C. 5323(j)(9) now allows a party adversely affected by an FTA action the right to seek review.

- e. Disadvantaged Business Enterprises. Recipients shall ensure that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, certify that it has complied with the requirements of 49 CFR Part 26.
9. DEBARMENT AND SUSPENSION. The purpose of the Governmentwide Debarment and Suspension (Nonprocurement) regulations (49 CFR part 29) is to ensure that Federal assistance funds are not provided to anyone who has been debarred, suspended, ineligible, or voluntarily excluded from participation in Federally-assisted transactions. The U.S. General Services Administration (GSA) maintains a website, at www.epls.gov, which is updated in real time as changes to the data occur. GSA's Excluded Parties List System provides a single comprehensive list of individuals and firms excluded by Federal government agencies from receiving federal contracts or federally approved subcontracts and from certain types of federal financial and nonfinancial assistance and benefits.
 - a. U.S. DOT regulations, "Governmentwide Debarment and Suspension (Nonprocurement)," 49 CFR part 29, requires disclosure of the status of persons and entities participating in:
 - (1) Third party contracts or subagreements of \$25,000 or more at any tier,
 - (2) Third party contracts of any amount for Federally required audit services (such as those required under the Single Audit Act Amendments), and
 - (3) Third party contracts or subagreements requiring official DOT approval.
 - b. Both participants in third party contracts of any tier and subagreements of any tier are expected to assure the status of persons participating therein.

- (1) The awarding party must verify that the person is not excluded or disqualified by:
 - (a) Checking the Excluded Parties List System (EPLS) maintained by the General Services Administration (GSA) and available at <http://epls.gov> [strongly recommended by FTA], or
 - (b) Collecting a certification from the prospective awardee, or
 - (c) Adding a clause or condition to the third party contract or subagreement with that awardee.
- c. In addition, the recipient and awardees participating in lower tier transactions are required to extend these requirements to their awardees.
 - (1) The prospective awardee in turn must notify the recipient or third party contractor (person at the next higher tier) if it knows whether or not it or any of its principals is presently excluded or disqualified under the these regulations.

10. FINANCIAL MANAGEMENT.

a. Financial Management Systems.

- (1) Designated recipients that are States. The common grant rule requires a designated recipient that is a State to expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subrecipients and cost-type contractors must be sufficient to:
 - (a) Permit preparation of reports described in this circular and reports necessary to comply with other program and statutory requirements; and
 - (b) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions applicable to the program.

Private subrecipients must comply with the standards for financial management systems provided in 49 CFR part 19. If States purchase vehicles and equipment for subrecipients, and subrecipients receive no cash, this requirement does not apply.

- (2) Designated recipients that are not States. The Financial management system for designated recipients that are not States must meet the standards set forth in 49 CFR 18.20(b) of the common grant rule. These standards include:
 - (a) Financial reporting. Accurate, current, and complete disclosure of the financial results of financially-assisted activities must be made in accordance

with the financial reporting requirements of the designated recipient or subrecipient.

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

- b. FTA Payment Procedures. FTA makes all payments by electronic funds transfer, regardless of the dollar amount involved. Payments are made under the Electronic Clearing House Operation Web (ECHO-Web) system, by means of a control number assigned to the State. The State agrees to comply with the ECHO-Web requirements contained in the U.S. Department of Treasury Regulations, 31 CFR part 205, "Rules and Procedures for Efficient Federal-State Funds Transfers," and as established by the "Guidelines for Disbursements" set forth in FTA's ECHO-Web system operations manual. Detailed information about ECHO-Web can be found in Appendix A. In general:
- (1) The designated recipient may initiate cash drawdowns only when actually needed for immediate disbursements for project purposes. The designated recipient must disburse the funds drawn down according to their Treasury-State Agreement or Subpart B of 31 CFR part 205. The designated recipient's access to the ECHO-Web system may be revoked or suspended, or other remedies may be invoked, if the designated recipient fails to expend the Federal funds within a reasonable period, to return the funds to FTA within a reasonable period, or is unwilling or unable to establish procedures that will minimize the time elapsing between cash advances and the disbursement.
 - (2) Costs incurred and available balances are reported annually on an accrual basis, on the Financial Status Report in FTA's Transportation Electronic Award and Management (TEAM) System.
 - (3) The designated recipient agrees to provide for control and accountability for all project funds consistent with Federal requirements and procedures for use of the ECHO-Web system.
 - (4) The designated recipient may not draw down funds for a project in an amount that would exceed the sum obligated by FTA or the current available balance for that project.
 - (5) The designated recipient shall limit drawdowns to eligible project costs and ensure that subrecipients also follow applicable financial requirements.
- c. Financial Records. FTA does not maintain detailed financial records on individual projects within a program of projects. Financial records, supporting documentation, and all other records pertinent to a designated recipient must be retained by the designated recipient (and its subrecipients) and must be made readily available to authorized representatives of DOT and the Comptroller General of the United States for a period of three years from the date the State electronically submits the final Financial Status Report (SF-269A). If any litigation, claim or audit is started before the expiration of the three-year period, the records must be retained beyond three years, until all litigation, claims, or audit findings involving the records have been resolved.

The designated recipient's financial records should adequately document the computation of the Federal share and the provision of the required local share for each kind of project. The eligibility of any Americans with Disabilities Act of 1990 (ADA), clean air, or bicycle projects for which the increased Federal share is claimed should be adequately documented.

11. ALLOWABLE COSTS. Office of Management and Budget (OMB) Circular A-87 (codified at 2 CFR part 225) provides the Federal guidelines for allowable costs for recipients that are governmental authorities. OMB Circular A-122 (codified at 2 CFR part 230) provides comparable guidance for non-profit organizations. Expenses such as indirect costs or payments to a self-insurance fund must be documented appropriately. The restrictions on advertising and public relations permit advertising and public relations for "specific purposes necessary to meet the requirements of the Federal award." Similar provisions are also contained in A-122. Transit marketing and promotion are allowable project costs under these provisions, since transit ridership is the ultimate purpose of the Federal designated recipient.
12. CLOSEOUT. Designated recipients should initiate project closeout with subrecipients within 90 days after all funds are expended and all work activities for the project are completed. The designated recipient should similarly initiate program of project (POP) closeout with FTA within 90 days after all work activities for the program of projects are completed. A final Financial Status Report (SF 269A), final budget and final program of projects must be submitted electronically via the TEAM system at the time of closeout.

FTA expects grants awarded for a specific program of projects to be completed within a reasonable, specified time frame, generally not to exceed two to three years. Although this circular provides designated recipients a great deal of flexibility in developing and subsequently revising programs of projects, it is not FTA's intent that grants be continually revised or amended in ways which will excessively prolong the life of the grant, and consequently result in a large number of active New Freedom grants. If small amounts of funds remain in an inactive grant, the designated recipient should request that the funds be deobligated and the project closed out. If the deobligated funds are still within their period of availability, FTA can reobligate the funds in a new grant to the designated recipient along with other currently available funds. Otherwise the deobligated funds lapse to the designated recipient and are reapportioned by FTA among all the recipients in the population category of the designated recipient in a subsequent year.

13. AUDIT. Designated recipients are responsible for ensuring that audits are performed pursuant to the requirements of OMB Circular A-133, "Audits of State and Local Governments," resolving audit findings, and bringing problems to FTA's attention. FTA has not required an annual financial audit of a subrecipient when assistance is provided solely in the form of capital equipment procured directly by the designated recipient. Even if the amount of FTA funds the designated recipient passes to a particular subrecipient does not trigger the requirement for an A-133 audit, the designated recipient may wish to review A-133 audit reports prepared for subrecipients that are required to be audited because the

total Federal funds from all sources exceed the threshold (currently \$500,000). At a minimum, designated recipients should require subrecipients to bring to the attention of the designated recipient any audit findings relevant to their use of FTA funds.

14. REAL PROPERTY. Real property acquisition standards are included in the current FTA Circular 5010.1, "Grant Management Guidelines" and in Chapter VIII, "Other Provisions." Subrecipients of a State may use the State's staff appraisers to prepare required independent appraisals.
15. CONSTRUCTION MANAGEMENT AND OVERSIGHT. The responsibility for construction management and oversight lies with the designated recipient. FTA does not approve design plans for construction projects.
16. REPORTING REQUIREMENTS.
 - a. Annual Program of Projects Status Reports. By October 31 each year, the designated recipient for small urbanized, rural areas, and other direct recipients for small urbanized areas should submit to FTA a program status report for each active grant, covering the 12-month period ending September 30. Designated recipients in large urbanized areas must submit quarterly status reports. Status reports are intended to meet minimal program information needs at the regional and national levels. Reports should include an updated program of projects for each approved grant which contains active projects. The updated program of projects should reflect project descriptions, changes in projects from one category to another, and adjustments if applicable. The updated program of projects can be attached in the electronic status report.

If revisions to the program of projects result in changes to the line item budget for the grant, these changes should be submitted as budget revisions. Significant civil rights compliance issues occurring during the year (such as Title VI, Equal Employment Opportunity (EEO), or Disadvantaged Business Enterprise (DBE) Program complaints against the State or subrecipients) should be addressed in the annual status report. In addition, the designated recipient may report notable accomplishments or problems involving New Freedom subrecipients.
 - b. Milestone Activity Reports. For activity line items (ALIs) for which milestones were required at the time of recipient application (for example, for vehicle procurements, construction projects, and program reserve), the recipient should enter revised milestone dates as part of the report. If the estimated completion date for the grant has changed, the revised date should be entered, with an explanation as to why the date has changed.
 - c. Program Measures. As indicated in Chapter 2, FTA will be capturing overall program measures to be used with the Government Performance Results Act and the Performance Assessment Rating Tool process for the Office of Management and Budget (OMB). The following indicators are targeted to capture overarching program information as part of the Annual Report that each grantee submits to FTA. Designated

recipients should submit both quantitative and qualitative information as available on each of the following measures:

- (1) Services provided that impact availability of transportation services for individuals with disabilities as a result of the New Freedom projects implemented in the current reporting year. Examples include geographic coverage, service quality and/or service times.
- (2) Additions or changes to environmental infrastructure (e.g., transportation facilities, side walks, etc), technology, vehicles that impact availability of transportation services as a result of the New Freedom projects implemented in the current reporting year.
- (3) Actual or estimated number of rides (as measured by one-way trips) provided for individuals with disabilities as a result of the New Freedom projects implemented in the current reporting year.

The designated recipient should ensure that the above information is reported for all recipients and subrecipients of New Freedom funding in projects selected by the designated recipient, including those that were transferred to Section 5307 or 5311 for administration. The designated recipient may consolidate information for all projects in the annual report for any open New Freedom grant awarded to the designated recipient. If New Freedom funds have been awarded to other direct recipients pursuant to a supplemental agreement with the designated recipient, that direct grantee may report on behalf of itself and any subrecipients.

- d. Financial Status Report. The recipient must submit electronically a quarterly or annual Financial Status Report for each active grant for the reporting period. For the purpose of this report, funds are considered encumbered when agreements are signed with subrecipients. Reports should be prepared using the accrual method of accounting.
 - e. Disadvantaged Business Enterprise (DBE) Reports. If the recipient receives planning, capital, and/or operating assistance and will award prime contracts exceeding \$250,000 in FTA funds in a fiscal year, DOT regulations require the recipient to have a DBE program. All subrecipients that receive planning, capital, and/or operating assistance and will award prime contracts exceeding \$250,000 in FTA funds in a fiscal year must also have a DBE program. FTA recipients who meet the thresholds above must submit a DBE program goal to FTA for review by August 1 of each year. Detailed requirements are described in Chapter VIII, "Other Provisions."
17. MANAGEMENT PLAN. The State Management Plan (SMP) is a document that describes the State's policies and procedures in administering the New Freedom Program. The SMP required for the New Freedom, JARC, Section 5311 and 5310 programs may be included in the same document. All States are required to have an approved SMP on file in the FTA regional office. Additions or amendments to the SMP must be made and submitted to FTA whenever a State significantly changes its management of the program, or when new

program management requirements are imposed by FTA. Changes may be required as the result of a State management review by FTA. Guidance on the contents of the SMP is included in Chapter VII, State Management Plan.

Designated recipients that are not States must also have a Program Management Plan (PMP). This plan can be one plan for the New Freedom Program or a combined plan for New Freedom and JARC and shall adhere to the "Management Plan" provisions in Chapter VII.

18. MANAGEMENT REVIEW. FTA's administration of New Freedom results in relatively little Federal involvement in the day-to-day program activities or in the review of individual applications from subrecipients. In order to ensure that the program objectives are being met, the FTA regional office, with contractor assistance, conducts periodic State management reviews every three years or as circumstances warrant. The review includes an inspection of documentation on file at the regional office, a visit to the State offices to examine the procedures the State uses in administering the program, and local site visits. The review assesses the accuracy and adequacy of the SMP, and may result in recommendations for changes to the SMP. A draft report with preliminary findings is presented at an exit conference. The State has an opportunity to comment on the report and to take corrective actions before a final report is issued. The regional office follows up on corrective actions required in the final report.

FTA periodically conducts State management review seminars to help States understand the Federal requirements being reviewed and to provide technical assistance. Recipients may contact the regional office for a current schedule of seminars.

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

19. OTHER FTA REVIEWS. FTA also conducts more specific compliance reviews in particular areas, for example financial management, procurement, drug and alcohol testing compliance, and the various aspects of civil rights compliance, usually in response to a risk assessment or other indication of a possible problem. Reviews of subrecipients are coordinated with the State or designated recipient.

CHAPTER VII

STATE AND PROGRAM MANAGEMENT PLANS

1. **GENERAL.** The State Management Plan (SMP) is a document that describes the State's policies and procedures for administering FTA's Section 5310 and 5311 programs and the State-managed portions of the Job Access and Reverse Commute (JARC) and New Freedom Programs. Section 5310 and 5311 are entirely State-managed programs while JARC and New Freedom are managed in part by the State and in part by the designated recipients in large urbanized areas (over 200,000 in population). The Program Management Plan (PMP) is a document that describes the designated recipient's policies and procedures for administering FTA's JARC and New Freedom Programs in a large urbanized area. The requirements for the PMP are the same as those for the SMP with the exception that the PMP is developed by designated recipients in large urbanized areas and pertains only to the JARC and New Freedom Programs.

Each designated recipient is required to have an approved SMP/PMP on file with the appropriate FTA regional office and to update it regularly to incorporate any changes in program management or new requirements. The designated recipient shall provide an opportunity for review by stakeholders when it develops a new plan or significantly revises an existing plan. Certain contents of the SMP/PMP, such as the project selection criteria, should be coordinated with the statewide transportation plan. SMPs and PMPs for Section 5310, 5311, JARC and New Freedom programs may be included in a single document or separate documents. All public documents developed under a grant from FTA must be prepared and submitted in electronic format.

2. **PURPOSE.** The SMP/PMP is intended to facilitate both designated recipient management and FTA oversight by documenting the State's and designated recipient's procedures and policies for administering the New Freedom Program. The SMP/PMP should be a document that is useful to the designated recipient and subrecipients, as well as to FTA. At a minimum, this document must include the designated recipient's program objectives, policies, procedures, and administrative requirements, in a form readily accessible to potential local subrecipients, designated recipient staff, FTA, and the public. The SMP/PMP's primary purposes are to serve as the basis for FTA to perform designated recipient-level management reviews of the program, and to provide public information on the designated recipient's administration of the New Freedom Program. It may also be used internally by the designated recipient as a program guide for local project applicants. If the designated recipient has relevant documentation that provides the same information requested for the SMP/PMP, that documentation may be included by reference, as an attachment.
3. **MANAGEMENT PLAN REVIEWS.** FTA conducts State management reviews to examine each State's management procedures, and the relationship of the procedures to the SMP. When a State management review is scheduled, FTA and its contractors examine the SMP on file as part of a desk review at the regional office to determine whether the procedures in

the SMP satisfy current requirements. At the site visit, the reviewers document whether or not the State is following its own stated procedures. Review findings relating to the SMP might include recommendations that the State revise the SMP to reflect its actual procedures, or that it change its procedures and document them in revisions to the SMP. In the case of designated recipients that are Section 5307 recipients, the PMP will be reviewed during triennial reviews.

4. MANAGEMENT PLAN CONTENT. While there is no prescribed format for the SMP/PMP, the plan should address the following topics and provide the information as requested for each topic below:
 - a. Program Goals and Objectives. Describe the philosophy and policy underlying the designated recipient's management of the New Freedom Program. Include a description of any process that exists for establishing long-term goals for providing transportation service to individuals with disabilities in the designated recipient's service area, including the process for long range planning and consultation with elected officials.
 - b. Roles and Responsibilities. Specify the agency designated by the chief executive officer of a State to administer the New Freedom Program. Explain the respective roles and responsibilities of the designated recipient and its subdivisions, other designated recipient agencies or review boards, local governments, private providers, local applicants, and other involved parties.
 - c. Coordination. Describe how the designated recipient coordinates with other agencies at the designated recipient level and encourages and enhances coordination at all levels of service. This could include a description of any designated recipient-level coordinating mechanisms, legislation, review boards, and designated recipient policies that encourage or mandate coordination at other levels.
 - d. Eligible Subrecipients. Describe which entities are eligible to apply for funds, and describe any designated recipient eligibility requirements that are more restrictive than Federal eligibility requirements.
 - e. Local Share and Local Funding Requirements. Describe any designated recipient policies on provision of local matching share. Include a description of any programs which provide matching funds for FTA programs.
 - f. Project Selection Criteria and Method of Distributing Funds. Describe the designated recipient's competitive selection process for selecting projects and distributing funds among various applicants, including the policy rationale and the methods used. This description should include the designated recipient's procedures for (1) assuring equity of distribution of benefits among eligible groups, as required by Title VI of the Civil Rights Act; (2) assuring that projects were selected from a locally developed coordinated plan; and (3) documenting evidence that the local coordinated plan was

developed in cooperation with stakeholders, including individuals with disabilities utilizing transportation services.

- g. Annual Program of Projects Development and Approval Process. Describe the designated recipient's process and timetable for soliciting, reviewing, and approving applications for local projects to be included in the designated recipient's annual program of projects (POP). The SMP/PMP may include instructions to potential subrecipients on how to prepare local project applications.
- h. Administration, Planning and Technical Assistance. Describe how the designated recipient uses New Freedom funds within the 10 percent limitation for administration, planning, and technical assistance. Also describe additional resources including planning, technical, management assistance the designated recipient makes available to local areas and/or subrecipients.
- i. Transfer of Funds. Describe any policy the designated recipient has for transfer of New Freedom funds to Section 5311 or 5307 programs, and for transfer of flexible funds.
- j. Private Sector Participation. Describe the designated recipient's procedures for providing for maximum feasible participation by private providers of public transportation.
- k. Civil Rights. Describe how the designated recipient meets Federal civil rights requirements and monitors subrecipients to ensure compliance with the requirements of Title VI, Equal Employment Opportunity (EEO), and Disadvantaged Business Enterprise (DBE) Program. The designated recipient management plan must include the program-specific Title VI requirements detailed in Chapter VIII, "Other Provisions," including the designated recipient's efforts to assist minority applicants and to include subrecipients serving significant minority populations. (Inclusion in the PMP may satisfy certain requirements for one-time submissions in the civil rights areas).
- l. Section 504 and ADA Reporting. Describe the designated recipient's method for monitoring subrecipients' compliance with Section 504 and Americans with Disabilities Act of 1990 (ADA) regulations and for processing the plans, reports and certifications submitted to it under the provisions of those regulations.
- m. Program Measures. Describe the designated recipient's method for collecting and reporting the data for program measurement described in Chapter II and Chapter VI of this circular.
- n. Designated Recipient Program Management. Describe how the designated recipient administers its program management responsibilities in such areas as procurement, financial management, property management, vehicle use, maintenance and disposition, accounting systems, audit and close-out. In addition, include any designated recipient procedures for management or financial reviews and project monitoring or on-site

reviews. Describe any standards set by the designated recipient for matters such as productivity, cost-effectiveness, or service standards. Detail any designated recipient reporting requirements.

- o. Other Provisions. Describe the process by which the designated recipient complies with other Federal requirements such as environmental protection, Buy America provisions, pre-award and post-delivery reviews, restrictions on lobbying, prohibition on exclusive school transportation, and drug and alcohol testing, including the designated recipient's procedures for monitoring compliance by subrecipients.
5. MANAGEMENT PLAN REVISIONS. All designated recipients must have an SMP/PMP approved by FTA on file with the FTA regional office. An approved SMP/PMP remains valid until FTA approves a later plan submitted by the designated recipient, or an FTA designated recipient management review results in a specific request to the designated recipient by FTA for a revised SMP/PMP, or FTA announces significant new program documentation requirements. FTA strongly encourages the designated recipient to issue timely revisions to the SMP/PMP, particularly when information helpful to minority applicants, subrecipients, and third party contractors is involved. When the designated recipient proposes major changes to the SMP/PMP, the designated recipient should give an opportunity to comment at the minimum to potential subrecipients of assistance, potential service providers, other designated recipient agencies and representatives of other funding sources, and any relevant designated recipient associations and professional organizations.

If revisions are substantive, but not pervasive, the designated recipient may submit changes and additions in the form of page changes which can be approved by FTA and incorporated into the SMP/PMP on file. If the designated recipient changes the SMP/PMP significantly, however, it should submit the entire revised plan to FTA for approval. The designated recipient is responsible for ensuring that FTA has a complete copy of the current SMP/PMP. The designated recipient may submit minor changes and technical corrections to FTA to update the approved plan, without the need for additional FTA approval. The designated recipient should ensure that its SMP/PMP reflects current requirements of this circular, and revise the SMP/PMP if necessary. Designated recipients should submit new or updated SMP/PMPs as needed to meet these requirements to FTA by November 1, 2007.

CHAPTER VIII

OTHER PROVISIONS

1. INTRODUCTION. In addition to the program-specific requirements and guidance provided in this circular, FTA grantees are held to a number of FTA-specific and other Federal requirements. This chapter attempts to summarize those requirements and provide citations to the actual statutory or regulatory text. If there is a conflict between the summary information provided in this chapter and the statute or regulation, the language of the statute or regulation controls. Readers should use this chapter in conjunction with FTA's "Master Agreement" and the current fiscal year "Certifications and Assurances" that grantees must sign annually (via the Transportation Electronic Award and Management (TEAM) system) to establish or renew their funding relationship with FTA. The Master Agreement and the Certifications and Assurances represent the grantees' legal affirmation to abide by FTA and other Federal requirements that are applicable to their grant programs.

Some of the topics covered in the Master Agreement and the Certifications and Assurances are summarized below, as a reminder to grant recipients of their obligations to FTA. More information about individual requirements can be found in the Master Agreement and the Certifications and Assurances on the TEAM website (<http://ftateamweb.fta.dot.gov>), and in the references provided below. Grantees may contact their FTA Regional Counsel for more detail about these requirements.

2. PROCUREMENT RESTRICTIONS. An applicant seeking Federal assistance pursuant to the Federal transit laws as codified at 49 U.S.C. 5301 et seq. to acquire property or services in support of a proposed project is subject to numerous provisions of law pertaining to third-party procurement requirements. SAFETEA-LU recodified FTA's procurement requirements in 49 U.S.C. 5325. In addition, regulations promulgated at 49 CFR part 18 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) establish uniform administrative rules for Federal grants, cooperative agreements and subawards to State, local and Indian tribal governments (private, non-profit organizations must comply with similar regulations in 49 CFR part 19). Provisions of the common rule pertaining to procurement requirements for FTA recipients are set forth at 49 CFR 18.36. Those requirements, as well as other FTA specific provisions, are also set forth in FTA's Master Agreement (FTA MA(13) October 1, 2006, as amended) at Section 15, Procurement, updated annually with the issuance of each new Master Agreement. Finally, FTA has published additional guidance relative to recipients' compliance with third-party procurement requirements in the current FTA Circular 4220.1 and its "Best Practices Procurement Manual." The regulations and guidance are intended to ensure full and open competition and equitable treatment of all potential sources in the procurement process including planning, solicitation, award, administration and documentation of all Federally-funded contracts.

Each recipient of FTA seeking Federal assistance to acquire property or services in support of its proposed project shall certify to FTA, in accordance with 49 CFR 18.36, that its

procurements and procurement system will comply with all applicable third-party procurement provisions of Federal laws, regulations, and directives, except to the extent FTA has expressly approved otherwise in writing. Any applicant that fails to provide this certification may be determined ineligible for award of Federal assistance, if FTA determines that its procurement practices and procurement system are incapable of compliance with Federal laws, regulations and directives governing procurements financed with FTA assistance.

3. PUBLIC HEARING REQUIREMENTS. The public hearing requirement in 49 U.S.C. 5323(b) for capital projects was changed by SAFETEA-LU. The law now associates more clearly the public involvement and hearing requirements for capital projects with the environmental review required by the National Environmental Policy Act (NEPA) and its implementing regulations. It also broadens the requirement to apply to all capital projects (as defined in 49 U.S.C. 5302). Now, the grant applicant must provide an adequate opportunity for public review and comment on a capital project, and, after providing notice, must hold a public hearing on the project if the project affects significant economic, social, or environmental interests. These requirements will be 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 will also require 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.

Pursuant to 49 U.S.C. 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.

Title 49 U.S.C. 5323(b)(2) further states, “Notice of hearings under this subsection shall include a concise description of the proposed project; and shall be published in a newspaper of general circulation in the geographic area the project will serve.”

Title 49 U.S.C. 5323(b) must be read in concert with 49 U.S.C. 5324(b) which states that FTA must review the public comments and hearing transcript to ascertain that an adequate 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 U.S.C. 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 Transportation Improvement Programs (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 that project will “substantially” affect a particular community and its public transportation service.

4. ENVIRONMENTAL PROTECTIONS. FTA’s environmental impact regulation (49 CFR part 622, referencing 49 CFR part 771) requires different levels of analysis and documentation for the various types of projects funded through its programs. Most projects and activities funded through the New Freedom Program do not normally involve significant environmental impacts. Such projects are termed “categorical exclusions (CEs)” in FTA’s procedures because they are types of projects that have been categorically excluded from the requirement to prepare an environmental document. In the annual certifications and assurances, the State assures FTA that all the projects in the application are CEs under 23 CFR 771.117(c) unless otherwise noted. The regulation classifies categorically excluded actions and projects into two groups.

The first group, described at 23 CFR 771.117(c), contains activities and projects that have very limited or no environmental effects at all, such as planning and technical studies, preliminary design work, program administration, operating assistance, and transit vehicle purchases. Because environmental impacts of these activities are either nonexistent or minimal, no environmental documentation is required.

The second group of projects, described at 23 CFR 771.117(d), which normally qualify for a CE, are projects involving more construction and greater potential for off-site impacts. Examples include new construction or expansion of transit terminals, storage and maintenance garages, office facilities, and parking facilities. Experience has shown that these projects can be built and operated without causing significant impacts if they are carefully sited in areas with compatible land use where the primary access routes are adequate to handle the additional transit vehicle traffic. These construction projects may be designated as CEs after FTA approval, but no presumption exists concerning the significance of environmental effects. It is the applicant’s responsibility to provide documentation that clearly demonstrates that the stated conditions or criteria are met and that no significant adverse effects will result. Such documentation is usually narrowly focused on one or a limited number of environmental concerns or questionable areas. Depending on the circumstances, some technical analysis may be required, such as a noise impact assessment or a street capacity analysis; but in most cases, the documentation will focus on consistency with local land-use plans, zoning and any State or local plans or

programs governing the protection and management of environmental resources, such as air quality, water quality and noise abatement. The documentation will provide a written record of coordination with those State and local agencies having jurisdiction or a special interest in some aspect of the project. There is no formal public review for these types of environmental studies. FTA reviews this information and determines if a CE is appropriate. In order to include or advance such a project to Category A, the State must have on file a letter from FTA approving the CE. (See Chapter IV for discussion of the categories of approval.)

For any project which is not found to be a CE, the designated recipient may be required to prepare an EA for public comment and FTA review to determine if a finding of no significant impact (FONSI) is appropriate. A project which requires an EA may not be included in Category A before FTA has issued a FONSI for the project. In the unlikely event that significant environmental impacts are identified for a New Freedom project, an EIS will be required.

A number of environmentally related statutes, orders, and compliance procedures may apply to a given project even if it is properly classified as a CE. The environmental requirements which may come into play for New Freedom projects include the following: Clean Air Act (CAA) conformity provisions; protection of public parkland, wetland and waterfowl refuges, and historic sites (49 U.S.C. 303); Section 106 of the National Historic Preservation Act (protection of historic and archaeological resources); and Section 404 of the Clean Water Act (Corp of Engineers' permit requirements for dredge and fill activities in "waters of the United States"). FTA policy is to require compliance with these environmentally related requirements within the overall environmental process. The EA or environmental documentation to support a CE must address these related requirements. Compliance with these requirements must be completed before a construction project is included in Category A.

For purposes of NEPA, FTA's procedures categorically exclude most New Freedom projects. Recipients should screen potential projects when they are first identified to make an initial determination as to which projects clearly meet the FHWA/FTA criteria for CEs and which projects may require additional documentation. The latter should be coordinated with the FTA regional office early in project development so that any necessary environmental analysis and review will not delay implementation. Any project involving new construction of a facility or substantial rehabilitation of an existing facility must be discussed with FTA to determine the need for information supporting a CE and the applicability of any additional environmental requirements. Early coordination is also necessary to identify those projects for which the State must prepare an EA. If an EA is required, further steps to develop the project will not be authorized (e.g., property acquisition, final design, and construction) until FTA makes a final environmental finding for the project. Any Category B project that is not in the list of CEs in 23 CFR 771.117(c) requires environmental clearance from FTA before being advanced to Category A. Chapter IV provides additional information on the categories of approval within the program of projects.

5. CLEAN AIR ACT. The principal Clean Air Act requirement with which FTA-funded projects must comply is the transportation conformity process. The conformity requirements are contained in an Environmental Protection Agency regulation (40 CFR part 93) and they apply in areas that currently violate one or more of the national ambient air quality standards (nonattainment areas) and also in areas that once violated the standards but have since been redesignated to attainment status by EPA (so-called maintenance areas). The transportation conformity process applies not only to Federally-funded projects but also to long-range transportation plans and transportation improvement programs (TIPs). Determining conformity for transportation plans and TIPs is the responsibility of the MPO. Determining conformity for individual projects is the project sponsor's responsibility. Major transit infrastructure projects, e.g., new fixed guideway projects and extensions, will be analyzed at both the regional and local scales.

The transportation conformity regulation reserves detailed air quality analysis for large projects which have the potential to create new violations or make existing violations worse. There is also a list of exempt highway and transit projects in the regulation that do not require any analysis. Many transit projects are exempt from the conformity requirements and can be processed expeditiously. Regardless of the type of project being considered, early consultation with FTA is essential in nonattainment and maintenance areas to establish what the requirements are and how best to satisfy them. The FTA regional office can also provide information on selected provisions of other laws that support clean air objectives—for example, FHWA's Congestion Mitigation and Air Quality (CMAQ) Improvement Program. Over the years, local transit agencies have benefited greatly from this program as a supplementary source of funding for transit. The CMAQ Program has its own eligibility requirements with which FTA's regional offices are familiar.

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

The most comprehensive FTA document regarding private enterprise requirements is a report titled *Private Enterprise Participation in Transportation Planning and Service Delivery*. The report is available on FTA's website at:

http://www.fta.dot.gov/documents/Private_Enterprise_Brochure.doc or
http://www.fta.dot.gov/laws/leg_reg_180.html.

7. REAL PROPERTY ACQUISITION AND RELOCATION ASSISTANCE. If a grant applicant intends to use Federal financial assistance in a project which will require the acquisition of real property, the applicant must provide assurances—required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as

amended (Uniform Act)—that it will comply with the Uniform Act and with U.S. Department of Transportation (DOT) implementing regulations (49 CFR part 24).

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

Title 49 CFR part 24 is available from the Government Printing Office website at: http://www.access.gpo.gov/nara/cfr/waisidx_99/49cfr24_99.html. The grantee should also be aware of State laws regarding compensation for real property and requirements for relocation of people and personal property.

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

8. **PRE-AWARD AND POST DELIVERY REVIEWS.** FTA requires grant recipients purchasing a certain number of revenue passenger rolling stock to undertake reviews of the rolling stock both before the award of the contract and following delivery of the vehicles. The intention is to improve compliance with Buy America requirements, the grantee's bid specifications, and Federal Motor Vehicle Safety Standards. The requirement to undertake the pre-award and post-delivery reviews arises from 49 U.S.C. 5323(m) and is specified in FTA regulations at 49 CFR part 663. Compliance must be certified on the Annual List of Certifications and Assurances.

SAFETEA-LU amended this requirement so that procurements of 20 vehicles or fewer, purchased for serving rural areas and cities of less than 200,000 population, are not subject to the review procedure. In urbanized areas of greater than 200,000 population, the reviews are not necessary for a purchase of 10 or fewer vehicles. The procurement of unmodified vans, in any quantity, is not subject to the review requirement.

When a State or designated recipient undertakes a consolidated procurement on behalf of several subrecipients of FTA funds, the requirement for a resident inspector at the manufacturing site depends upon the number of buses in a subrecipient's order. That is, for example, although a designated recipient may order 30 vehicles, if no subrecipient expects to receive more than 20 of the vehicles (more than 10 for a large urbanized area subrecipient), the designated recipient is not required to place an inspector on site. If more than 20 vehicles are ordered for a single subrecipient an on-site inspector is required, and

may be provided by either the designated recipient or the subrecipient. In addition, if the on-site inspector is used on one subrecipient's order, then this meets the on-site inspection requirement for the designated recipient procurement even though there are other subrecipient orders of more than 20 vehicles. A designated recipient or subrecipient in a large urbanized area must have an inspector on site if either will receive more than 10 vehicles.

In carrying out the reviews, it may be useful to obtain a copy of the manual, "Conducting Pre-Award and Post-Delivery Reviews for Bus Procurements," available on FTA's website at http://www.fta.dot.gov/laws/leg_reg_5423.html. Also, for buses that have been tested at the Altoona Bus Testing Center, the grantee must obtain a copy of the test report.

9. LABOR PROTECTIONS.

- a. Davis-Bacon Act. For FTA programs, 49 U.S.C. 5333(a) imposes Davis-Bacon Act prevailing wage requirements. This provision applies only to construction projects. In the event that a project involves construction, Section 5333(a) requires the Secretary to ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of loans or grants under Chapter 53 be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary may not approve any such loan or grant without first obtaining "adequate assurance" that required labor standards would be maintained upon the construction work. This assurance is obtained when recipients accept grant funds and sign the Master Agreement.
- b. Transit Employee Protection. Title 49 U.S.C. 5333(b) does not apply to the New Freedom Program.

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

- a. Nondiscrimination in Federal Transit Programs. The recipient agrees to comply, and assures the compliance of each third party contractor at any tier and each subrecipient at any tier under the Project, with the provisions of 49 U.S.C. 5332. These provisions prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibit discrimination in employment or business opportunity.
- b. Nondiscrimination—Title VI. The recipient agrees to comply, and assures the compliance of each third party contractor at any tier and each subrecipient at any tier of the Project, with all of the following requirements under Title VI of the Civil Rights Act of 1964:
 - (1) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be

subjected to discrimination under any program or activity receiving Federal financial assistance;

- (2) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act,”49 CFR part 21;
 - (3) The current FTA Circular 4702.1 “Nondiscrimination Guidelines for FTA Recipients.” This document provides FTA recipients and subrecipients with guidance and instructions necessary to comply with the DOT Title VI regulations (49 CFR part 21), the U.S. DOT’s Order to Address Environmental Justice in Minority Populations (62 FR 18377, Apr. 15, 1997), and U.S. DOT Policy Guidance Concerning Recipient’s Responsibilities to Limited English Proficient (LEP) Persons (70 FR 74087, December 14, 2005);
 - (4) U.S. DOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations. This Order describes the process that the Office of the Secretary of Transportation and each operating administration will use to incorporate environmental justice principles (as embodied in Executive Order 12898 on Environmental Justice) into existing programs, policies, and activities; and
 - (5) U.S. DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons. This guidance clarifies the responsibilities of recipients of Federal financial assistance from DOT and assists them in fulfilling their responsibilities to limited English proficient (LEP) persons, pursuant to Title VI of the Civil Rights Act of 1964 and implementing regulations.
- c. Equal Employment Opportunity. The recipient agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the Project, with all equal employment opportunity (EEO) requirements of Title VII of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e), and 49 U.S.C. 5332 and any implementing requirements FTA may issue.
 - d. Nondiscrimination on the Basis of Sex. The recipient agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, (20 U.S.C. 1681 et seq.), with implementing DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR part 25, and with any implementing directives that DOT or FTA may promulgate, which prohibit discrimination on the basis of sex.
 - e. Nondiscrimination on the Basis of Age. The recipient agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended, (42 U.S.C. 6101 et seq.), and implementing regulations, which prohibit employment and other discrimination against individuals on the basis of age.

- f. Nondiscrimination on the Basis of Disability. The recipient agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the Project, with the applicable laws and regulations, discussed below, for nondiscrimination on the basis of disability.
- (1) Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended (29 U.S.C. 794), prohibits discrimination on the basis of disability by recipients of Federal financial assistance.
 - (2) The Americans with Disabilities Act of 1990 (ADA), as amended (42 U.S.C. Section 12101 et seq.), prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities, as well as imposes specific requirements on public and private providers of transportation.
 - (3) U.S. DOT regulations implementing Section 504 and the ADA include 49 CFR parts 27, 37, and 38. Among other provisions, the regulations specify accessibility requirements for the design and construction of new transportation facilities; require that vehicles acquired (with limited exceptions) be accessible to and usable by individuals with disabilities, including individuals using wheelchairs; require public entities, including a private non-profit entity “standing in the shoes” of the State as a subrecipient providing fixed-route service, to provide complementary paratransit service to individuals with disabilities who cannot use the fixed-route service; and include service requirements intended to ensure that individuals with disabilities are afforded equal opportunity to use transportation systems.
 - (4) In addition, recipients of any FTA funds should be aware that they also have responsibilities under Titles I, II, III, IV and V of the ADA in the areas of employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.
- g. Disadvantaged Business Enterprise (DBE). To the extent required by Federal law, regulation, or directive, the recipient agrees to take the following measures to facilitate participation by DBEs:
- (1) The recipient agrees and assures that it will comply with SAFETEA–LU Section 1101(b), 23 U.S.C. 101 note, which requires DOT to ensure that not less than 10 percent of funds authorized for highway and transit financial assistance programs be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.
 - (2) The recipient agrees and assures that it will comply with DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 CFR part 26. Among other provisions, this regulation requires recipients of DOT Federal financial assistance, namely State and local transportation agencies, to establish goals for the

participation of disadvantaged entrepreneurs and certify the eligibility of DBE firms to participate in their DOT-assisted contracts.

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

For further guidance, refer to the Federal laws, regulations, and Executive Orders cited in this chapter. FTA's regional civil rights officers or headquarters civil rights staff will also provide current guidance on request.

11. DRUG AND ALCOHOL TESTING. Recipients or subrecipients that receive only Job Access and Reverse Commute (JARC), New Freedom, or Elderly Individuals and Individuals with Disabilities (Section 5310) Program assistance are not subject to FTA's Drug and Alcohol testing rules, but must comply with the Federal Motor Carrier Safety Administration (FMCSA) rule for employees who hold Commercial Driver's Licenses (CDLs) (49 CFR part 382). New Freedom recipients and subrecipients that also receive funding under one of the covered FTA programs should include any employees funded under New Freedom project in their testing program.

An FTA compliant testing program, as required by the receipt of FTA operating or capital funding (5307, 5309, 5311), can be used for New Freedom employees; there is no need to have two testing programs. Employees of a subrecipient of New Freedom funds from a designated recipient of another FTA program (such as 5307 or 5311) should also be included in the designated recipient's testing program.

In the interest of safety of transit operations, recipients of funding from the 5307 Urbanized Area Formula Program, 5309 Capital Program, 5311 Nonurbanized Area Formula Program, and other programs as determined by the Secretary are required by 49 U.S.C. 5331 to establish drug and alcohol testing programs. The purpose of the testing program is to help prevent accidents, fatalities, and injuries resulting from misuse of alcohol or the use

of prohibited drugs by employees who perform safety-sensitive functions. Grant recipients identified above must also certify annually that they are in compliance with DOT and FTA regulations concerning drug and alcohol testing (49 CFR parts 40 and 665). Compliance with the regulations is a condition of FTA funding. Where applicable, recipients of FTA funding are required to comply with Federal Railroad Administration (FRA) regulations and to FMCSA and United States Coast Guard (USCG) regulations concerning drug and alcohol programs.

To assure compliance with the drug and alcohol testing requirements, FTA has promulgated a regulation titled, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" (49 CFR part 655). The regulation applies to recipients of funds identified above. The regulation requires that FTA recipients follow the drug and alcohol testing procedures found in applicable FTA (49 CFR part 655) and DOT (49 CFR part 40) regulations.

FTA's regulation applies to "employers," and the term employer is defined as "a recipient [of FTA funding] or other entity that provides public transportation service or which performs a safety-sensitive function for such recipient or other entity." The term includes subrecipients, operators, and contractors. The direct recipient of FTA funding, however, remains responsible to FTA both for carrying out the regulations and for ensuring that any person or organization performing a safety-sensitive function on its behalf is in compliance with FTA regulations. Applicability to capital funding is limited to revenue operations; it does not apply to construction phases of funded projects.

FTA's regulation requires testing of employees who perform a safety-sensitive function, which is defined in 49 CFR part 655.4. The regulation requires the following six types of testing: pre-employment for drugs (including transfer from a non-safety-sensitive position to a safety-sensitive position); reasonable suspicion; random; post-accident; return-to-duty; and follow-up.

FTA's regulation requires each employer to establish and implement a substance abuse prevention program consisting primarily of a testing program but with elements requiring training, educating, and evaluating safety-sensitive employees. The regulation requires the development of a detailed policy statement that must be distributed to all safety-sensitive employees and employee organizations. In addition, 49 CFR part 655 Subpart D establishes alcohol concentration levels and prohibited behavior, and employers are directed to take specific action on the basis of the level of alcohol concentration. Technical assistance materials and training information to help grantees implement the rules are available at the website (<http://www.fta.dot.gov>—click on "Safety & Security") or through contacting the FTA Office of Safety and Security, FTA Headquarters.

12. **DRUG-FREE WORKPLACE.** In accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.), and 49 CFR part 32, each recipient is required to maintain a drug-free workplace for all employees and to have an anti-drug policy and awareness program. The grant applicant must agree that it will provide a drug-free workplace and comply with

all requirements of 49 CFR part 32. These provisions apply only to FTA's direct recipients and do not extend to subrecipients.

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

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

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

Technical assistance materials and training information to help grantees implement the Drug-Free Workplace and Drug and Alcohol Testing rules are available through FTA's Office of Safety and Security, FTA Headquarters.

13. RESTRICTIONS ON LOBBYING. Federal financial assistance may not be used to influence any Member of Congress or an officer or employee of any agency in connection with the making of any Federal contract, grant, or cooperative agreement. The State, subrecipients, and third party contractors at any tier awarded FTA assistance exceeding \$100,000 must sign a certification so stating and must disclose the expenditure of non-Federal funds for such purposes. 49 CFR part 20.

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

14. PRE-AWARD AUTHORITY.

- a. General. FTA provides blanket, or automatic, pre-award authority in certain program areas described below. This pre-award authority allows grantees to incur certain project costs before grant approval and retain their eligibility for subsequent reimbursement after grant approval. The grantee assumes all risk and is responsible for ensuring that all conditions are met to retain eligibility. This automatic pre-award

spending authority permits a grantee to incur costs on an eligible transit capital or planning project without prejudice to possible future Federal participation in the cost of the project or projects.

The authorization of formula funds or appropriation of funds for discretionary projects and publication of those projects in FTA's annual *Federal Register* Notice of Apportionments and Allocations triggers pre-award authority for design and environmental work on the project. Following authorization of formula funds or appropriation and publication of discretionary projects, pre-award authority for other capital projects including property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials is triggered by completion of the environmental review process with FTA's signing of an environmental Record of Decision (ROD), a Finding of No Significant Impact (FONSI), or a determination that the project is categorically excluded, and included in the State Transportation Improvement Plan (STIP).

FTA strongly encourages all recipients to consult with the appropriate FTA regional office regarding the eligibility of the project for future FTA funds and the applicability of the conditions and Federal requirements.

Pre-award authority for operating and planning projects under the formula grant programs is not limited to the authorization period. However, there is no pre-award authority for JARC or New Freedom projects before being competitively selected. (See Chapter III for discussion of pre-award authority of administrative funds.)

- b. Conditions. In general, all Federal grant requirements must be met at the appropriate time for the project to remain eligible for Federal funding. Specifically,
- (1) Pre-award authority is not a legal or implied commitment that the project(s) will be approved for FTA assistance or that FTA will obligate Federal funds. Furthermore, it is not a legal or implied commitment that all items undertaken by the applicant will be eligible for inclusion in the project(s).
 - (2) All FTA statutory, procedural, and contractual requirements must be met.
 - (3) The recipient must take no action that prejudices the legal and administrative findings that the Federal Transit Administrator must make in order to approve a project.
 - (4) Local funds expended by the recipient pursuant to and after the date of the pre-award authority will be eligible for credit toward local match or reimbursement if FTA later makes a grant for the project(s) or project amendment(s). Local funds expended by the recipient before the date of the pre-award authority will not be eligible for credit toward local match or reimbursement. Furthermore, the expenditure of local funds on activities such as land acquisition, demolition, or construction before the date of pre-award authority for those activities (i.e., the

completion of the NEPA process) would compromise FTA's ability to comply with Federal environmental laws and may render the project ineligible for FTA funding.

- (5) The Federal amount of any future FTA assistance awarded to the recipient for the project will be determined on the basis of the overall scope of activities and the prevailing statutory provisions with respect to the Federal/local match ratio at the time the funds are obligated.
- (6) For funds to which the pre-award authority applies, the authority expires with the lapsing of the fiscal year funds.
- (7) When a grant for the project is subsequently awarded, the Financial Status Report, in TEAM-Web, must indicate the use of pre-award authority.
- (8) More information and updates regarding pre-award authority can be found in FTA's annual apportionment notice published in the *Federal Register*.

15. SAFETY AND SECURITY. FTA's authority in the area of transit safety is set forth in 49 U.S.C. 5329. Under this section, FTA may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under Chapter 53 in order to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it. FTA may also require local jurisdictions to submit a plan for eliminating, mitigating, or correcting the deficiency. Finally, FTA may withhold further financial assistance from any grantee that fails to correct any safety and security deficiency.

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

16. LEASE VERSUS BUY CONSIDERATIONS. A grantee may use capital funds to lease capital assets from another party in cases where it is determined that leasing would be more cost effective than either purchasing or constructing the asset. Recipients with pre-award authority must conduct the cost comparison before entering into the lease. Recipients should refer to regulations for further details on conducting the cost effectiveness comparison (49 CFR part 639).

Recipients should submit the cost comparison to the appropriate FTA regional office for review before entering into the lease or before approval of the grant which supports the lease. The cost comparison should be retained on file for later review or audit. When a recipient intends to enter into a lease of considerable duration (rather than paying for the lease in a lump sum at the beginning of the lease period), the recipient must be able to

complete the acquisition with local funds in the event FTA funds are not available in later years.

When a recipient receives a Congressional earmark for a project and proposes to enter into a capital lease for some element of the project, the recipient must submit the cost comparison for FTA approval as part of the grant application. Recipients should review OMB Circular A-94 for the necessary discount rate to be used in making the cost effectiveness determination.

17. SCHOOL TRANSPORTATION. Title 49 U.S.C. 5323(f) prohibits the use of FTA funds for exclusive school bus transportation for school students and school personnel. The implementing regulation (49 CFR part 605) does permit regular service to be modified to accommodate school students along with the general public (so called “tripper service”). For the purpose of FTA’s school bus regulation, Headstart is a social service, not a school program. Rules for the Headstart program limit the types of vehicles which may be used to transport children participating in a Headstart program. FTA recipients may operate multi-functional vehicles which meet the safety requirements for school transportation, but may not provide exclusive school service.
18. COMMERCIAL DRIVER’S LICENSE. All drivers of vehicles designed to transport 16 or more passengers (including the driver) must have a CDL. Mechanics that drive the vehicles must also have a CDL.

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APPENDIX A

INSTRUCTIONS FOR PREPARING A GRANT APPLICATION TO FTA

1. PRE-APPLICATION STAGE.

- a. System Access. Applications for Federal Transit Administration (FTA) grant program funds must be submitted electronically through the Transportation Electronic Award and Management (TEAM) system. Applicants must have access to the FTA's TEAM system in order to enter a grant. If an applicant does not have access to TEAM, the applicant's representative should contact the appropriate FTA regional office for assistance. Contact information for FTA regional offices can be found in Appendix E.
- b. Planning. Before grant application submittal, project planning requirements shall be complete and properly documented. Project activities to be funded shall be included in a Federally-approved State Transportation Improvement Program (STIP) for capital and/or operating projects or Unified Planning Work Program (UPWP) for planning projects. In addition, all New Freedom grant applications shall be derived from a locally developed, coordinated public transit-human service transportation plan, which should be integrated into and consistent with the metropolitan and statewide planning processes. (See Chapter V for more details.)
- c. Environmental Determination. The impact that a proposed FTA assisted project will have on the environment shall be evaluated and documented in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.), before grant application.
- d. Annual Submission of Certifications and Assurances. A grant applicant applying for assistance under the New Freedom Program, or any other FTA grant program, must annually submit certifications and assurances that are applicable to the grant applicant's grant requests during the fiscal year. The certifications and assurances are discussed in Chapter IV, "Program Development." The certifications and assurances should be examined annually for changes and additions resulting from legislation.
- e. Civil Rights Submissions. Civil Rights submissions that may be required include a Title VI Plan, Equal Employment Opportunity (EEO) Program, Disadvantaged Business Enterprise (DBE) Program and annual goal, and ADA Paratransit Plan. The FTA Regional Civil Rights Officer must verify that all required Civil Rights submissions are current at the time that the grant application is entered into TEAM. The required documentation must be submitted before the official submission of the grant. A grant applicant should maintain readily available records of FTA approvals of civil rights submissions in the event a question concerning compliance should arise. (See Chapter VIII, "Other Provisions," paragraph 10, "Civil Rights.")
- f. Recipient's Allocation Letter. If the State is allowing a public entity in small urbanized area under 200,000 in population to apply for funds directly from FTA, or if the

designated recipient in an urbanized area over 200,000 in population is allowing designated Section 5307 recipients to apply for funds directly from FTA, the designated recipient of New Freedom funds should submit a letter annually that shows the allocation of the New Freedom funds for the fiscal year and the projects that were competitively selected to receive funding. This letter is only necessary if the State is allowing a public entity in small urbanized area under 200,000 in population to apply for funds directly from FTA. The direct recipient may submit this information to FTA while initiating the grant process in TEAM.

- g. Urbanized Area Allocation Split Letter. Submission of this information is required when there is more than one designated recipient of New Freedom funds in an urbanized area. FTA expects local officials through any process agreeable to the designated recipients, to notify FTA of how each year's allocation of New Freedom funds should be divided.
 - h. Transferred Funds. The request for transfer of funds should be made before applying for the grant in TEAM, if the grant application will fund projects using funds transferred from other programs. This includes funds flexed from the Federal Highway Administration (FHWA). (See Chapter III, "General Program Information," paragraph 8, "Transfer of Funds").
2. APPLICATION STAGE (TEAM INFORMATION). Applicants for New Freedom Program funds should submit their grant applications electronically through the TEAM. TEAM is a database accessible via the Internet (<http://ftateamweb.fta.dot.gov>). The TEAM User Guide provides detailed information on how to access and use FTA's TEAM System. The user guide covers the creation, submission, award, and execution of a grant application; reporting requirements, grant amendments, budget revisions, and close-out procedures are also addressed. Information that should be entered into TEAM when preparing an application includes:
- a. Recipient Information. Applicants should enter all required information about their organization in the appropriate fields in TEAM, including: recipient address, union information, Urbanized Area Identification Number (UZA ID), Congressional district(s), Data Universal Numbering System (DUNS) Number, etc. The information shall be current and accurate for each grant and periodically updated as changes occur.
 - b. Project Information. Applicants should identify whether the application is a new grant, a grant amendment, or a budget revision. The project start/end date, program date, EO 12372 review date, metropolitan planning organization (MPO) concurrence date (if applicable), and grant project costs shall be identified.
 - (1) Project description. This information must be in sufficient detail for FTA to obtain a general understanding of the nature and purpose of the planned activities. The Program of Projects (POP) should be included in this section. At a minimum, the POP should identify subrecipients funded through the grant application and the projects being implemented by each subrecipient. There is a specific text field for

this information associated with each activity line item (ALI). Project activities shall be sufficiently described to assist the reviewer in determining eligibility under the program and shall include the page number of the coordinated plan from which the project was derived, as well as the date the plan was adopted.

- (2) Program DATE and PAGE (STIP/UPWP). All projects for capital and operating funds in the grant application must be included in the current STIP. The STIP is jointly approved by FTA and FHWA. FTA funds cannot be obligated unless the STIP is approved by FTA. The application should note the page(s) in the most recently approved STIP on which the project(s) contained in the application are listed. The electronic system has a field designated “program date” where the date of the most recent FTA/FHWA STIP approval should be entered. If the grant includes planning activities the UPWP date should be entered here, if possible, or in the project details section.
- c. Budget. The appropriate scopes and ALIs should be used when developing the project budget. All sources of funds shall be identified and confirmed. All rolling stock procurements shall include vehicle description and fuel type; expansion activities shall include discussion on vehicle needs. The project budget should reflect the precise activities for which the grant funds will be used, and the budget should be prepared in accordance with requirements for specific funding programs. If the grant contains funding for tribal governments, the non-add scope (992–00) should also be added to the budget and identify the amount of funding in the application allocated to tribes. The non-add scope does not affect the total funds in the budget; it simply allows FTA to query the funding amounts upon request. If the grant contains Intelligent Transportation Systems (ITS) components the appropriate non-add scopes (993–00–Fleet Management, 994–00—Electronic Fare, and 995–00—Traveler Information) should be used to allow tracking of funding levels spent on ITS activities.
- d. Project Milestones. Estimated completion dates for all milestones should be provided; revenue vehicles have particular milestone requirements. If milestones are not prepopulated by the TEAM system for a particular ALI, use the add function to add milestones for that ALI to the grant application.
- e. Environmental Findings. The application should include a proposed classification of each ALI in accordance with FHWA/FTA Environmental Impact and Related Procedures. (See 23 CFR parts 771.115 and 771.117.) Grant applicants should refer to part 771.117(c) and (d) for a listing of the Class II projects. Most New Freedom funded projects meet the criteria for a categorical exclusion (CE) and require no further action. However, if a project does not clearly meet the criteria for a CE, a grant applicant is strongly encouraged to contact the FTA regional office for assistance in determining the appropriate environmental review process and level of documentation necessary.
- f. Fleet Status. Fleet status data is not required for New Freedom grant applications.

- g. Application Submission. Once FTA deems the activities eligible and determines that all pre-application requirements have been satisfied, a grant number is assigned. At this point, the grant is ready to be pinned (approved) and submitted in TEAM by the designated recipient/grantee.
- h. Certification of Labor Protective Arrangements. Department of Labor (DOL) certification is not applicable to grants funded under the New Freedom Program.
- i. Grant Approval. Once FTA staff determines through a final review of the application that FTA program requirements have been met, FTA awards and obligates funds requested in the grant.
- j. Grant Execution. After FTA has approved and awarded the grant, the applicant shall execute the award before funds can be drawn down from the grant. Grants that include pre-award activity require the submission of a financial status report before grant execution.

New Freedom Application Checklist on Next Page

3. NEW FREEDOM APPLICATION CHECKLIST.

<p>Part I—Recipient Information</p> <ol style="list-style-type: none"> 1. Are Annual Certifications & Assurances pinned? 2. Is the Grantee Contact & Other information Complete? 3. Is UZA/Congressional District information entered and accurate? 4. Is union contact information entered and accurate? 5. Has Civil Rights Program Documentation been approved by FTA? 6. Has the applicants DUNS Number been entered in the appropriate field? 	<p>Part IV—Budget</p> <ol style="list-style-type: none"> 1. Are activity line item (ALI) codes entered under the appropriate scope codes? 2. Have funding percentages been verified to ensure that Federal funds are not over the allowable share? 3. Does the funding amount entered in the budget match financial information entered in the “Project Information” field? <ol style="list-style-type: none"> a. Federal Funds b. Local Match 4. Does the rolling stock (vehicle) line item contain accurate information such as: <ol style="list-style-type: none"> a. Description b. Fuel Type 5. Details (Extended Budget Description) <ol style="list-style-type: none"> a. Has descriptive information been added in the details section of each ALI that identifies the items being funded using the line item? 6. If the grant contains funding to tribal gov’t’s, has a non-add scope been added to the grant that shows the funds allocated to tribes?
<p>Part II—Project Details</p> <ol style="list-style-type: none"> 1 Does the Project Description (including the POP and other attachments) include adequate descriptive information of funded subrecipients and projects? 	
<p>Part III—Project Information Have the following fields been completed if applicable?</p> <ol style="list-style-type: none"> 1 New Application or Amendment? 2. Start/End Date? 3. Program Date (STIP date) (UPWP if planning activities included)? 4. Have control totals been entered by the grantee? 5. If pre-award authority is applicable, has “yes” been selected? 6. Has the EO 12372 Review been completed, if applicable? 	<p>Part V—Project Milestones</p> <ol style="list-style-type: none"> 1. Are milestones listed for each ALI? (If an ALI does not have milestones, they should be added.) 2. Have estimated completion dates been entered? <p>Part VI—Environmental Findings (NEPA)</p> <ol style="list-style-type: none"> 1. Has an environmental finding been entered for each ALI?

4. ECHO INFORMATION.

- a. Title 49 CFR parts 18 and 19, and 31 CFR part 205, govern payments to recipients for financing operations under Federal grant and other programs. These regulations require that payment to a grantee be limited to the minimum amounts needed and timed so as to be in accord only with the actual, immediate cash requirements of the grantee in carrying out the approved project. For further information regarding cash management procedures, refer to the FTA “ECHO System Users Manual for Grantees.”
<http://www.fta.dot.gov/documents/ECHOWebGranteeUserManual.pdf>
- b. Instructions for Completing Form:
 - (1) Fill in your ECHO Control Number. If this is an Initial ECHO Setup, FTA will assign ECHO Control Number.
 - (2) Check appropriate box(es).
 - (3) Initial Setup.
 - (4) Change in Bank Information.
 - (5) Change in Grantee Information.
 - (6) Fill out information in the appropriate section(s) listed below:
 - (a) Grantee Information Section—Print or type the name of the grantee and address that will receive ECHO/ACH payments. Also include a contact person’s name, date, telephone and fax numbers.
 - (b) Financial Institution Information Section—Have your bank fill out this section. They should print or type the name and address of the financial institution who will receive the ECHO/ACH payment. Also included are the ACH coordinator’s name, telephone number, nine-digit routing transit number (ABA #), depositor (grantee) account title, depositor (grantee) account number, and type of account (type can ONLY be designated as Checking or Saving), signature and title of representative, date and fax number.
 - (7) Mail the form to the name and address shown in the Agency Information Section. This section also includes a contact person’s name and telephone number.

ECHO Control Number
(ECN) _____

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

Initial Setup

Info. Change

Grantee Information Change

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

GRANTEE INFORMATION		
NAME:		
ADDRESS:		
CITY/STATE/ZIP:		TELEPHONE NUMBER: ()
CONTACT PERSON NAME:		
SIGNATURE OF AUTHORIZED OFFICIAL IN FTA		TELEFAX NUMBER: ()
	DATE: / /	
AGENCY INFORMATION		
NAME: <i>Federal Transit Administration</i>		
ADDRESS: <i>400 Seventh Street SW., Room 9422, TBP-24, Washington, DC 20590</i>		
CONTACT PERSON NAME:	<i>202-366-1004</i>	
FINANCIAL INSTITUTION INFORMATION (Note: Have Your Bank Complete This Section)		
NAME:		
ADDRESS:		
CITY/STATE/ZIP:		
CONTACT PERSON NAME:		TELEPHONE NUMBER: ()
NINE DIGIT ROUTING TRANSIT NUMBER: _____		
DEPOSITOR ACCOUNT TITLE:		
DEPOSITORS ACCOUNT NUMBER:		
TYPE OF ACCOUNT: CHECKING SAVING		
SIGNATURE AND TITLE OF REPRESENTATIVE:	DATE: / /	FAX NUMBER: ()

Revised 7/98. If there are any questions, please call 202-366-9748 and ask for the agency's ACH contact.

APPENDIX B

SAMPLE NEW FREEDOM (SECTION 5317) PROGRAM OF PROJECTS

State or Designated Recipient: _____

5317: FY ____ Apportionment: \$ _____; Carryover: _____

Total Funds Available: _____

Total number of subrecipients funded in this Program of Projects: _____

LIST OF PROJECTS

Required subrecipient information includes: name of entity receiving the award, amount of award, location of the entity receiving the award and the primary location of performance under the award, including the city and/or county and Congressional District.

In the following list, identify with an asterisk (*) those subrecipients which are Indian tribal governments or serve Indian tribal transportation needs, and any other subrecipient that will be applying directly to FTA for funding.

CAPITAL, OPERATING, AND PROGRAM ADMINISTRATION

(Projects may include reasonable contingencies)

Subrecipient and type of Subrecipient	Category A or B	Program Description (Include Counties served)	Net Project Cost	Federal Share	Congressional District(s)	Location of Subrecipient
(1) _____	_____	_____	_____	_____	_____	_____
(2) _____	_____	_____	_____	_____	_____	_____
(3) _____	_____	_____	_____	_____	_____	_____
		SUBTOTAL - OPERATING	_____	_____		
		SUBTOTAL - CAPITAL	_____	_____		
		SUBTOTAL - PROGRAM ADMIN	_____	_____		

[Program of projects may be printed horizontally, with columns added to show capital, operating, and program administration for each subrecipient to facilitate subtotalling.]

PROGRAM ADMINISTRATION, PLANNING AND TECHNICAL ASSISTANCE [Section 5317]

(Not to exceed 10 percent of Section 5317 apportionment may be used to provide a 100 percent Federal share.)

Subrecipient	Category A or B	Program Description (Counties served)	Net Project Cost	Federal Share
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
		Subtotal (projects funded at 100 percent)	_____	_____
		Subtotal Program Administration	_____	_____

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APPENDIX C

NEW FREEDOM (SECTION 5317) BUDGET INFORMATION

Use the chart of activity line item (ALI) codes on TEAM to prepare a consolidated budget for the entire program of projects (POP) (Appendix B). Group related line items under appropriate scope codes. The scope is usually identified by the first three digits of the ALI followed by a two digit sequence number. A few exceptions for the New Freedom, Section 5317 program, are noted below. The same scope may be used more than once in a complex budget. If so, the repeated scope is numbered sequentially. For each ALI, enter the net project cost and the Federal share. The TEAM system generates standard descriptions for each ALI code, but the text may be overridden to enter more specific descriptions.

Show both net cost and Federal share for each ALI. The maximum Federal share for capital and planning is 80 percent and for operating is 50 percent. Program Administration does not require a local share.

CAPITAL

Use of the correct ALI codes identifies all vehicles as replacement or expansion, and indicates the size and type of vehicle or equipment. Enter a quantity for each vehicle ALI. For example, if there are 10 subrecipients in the POP and each will receive three replacement vans and one will get a mid sized bus for new service, the scope 111 (Bus, revenue rolling stock) would include two ALI codes—11.12.15, quantity 30, and 11.13.03, quantity 1. The individual recipients and types of service provided could be identified in extended text. Through TEAM, FTA is able to use this information to generate detailed reports electronically on the use of program funds.

Use as many capital scopes and activity codes as necessary to aggregate capital projects from the POP.

OPERATING

The ALI for operating assistance for all FTA programs is 30.09.00. The grant project number is sufficient to identify the program as New Freedom or Section 5317. Operating assistance should be shown under scope 300.

OTHER PROGRAM COSTS

Use the scope 600 for program administration (11.80.00).

PLANNING

Planning ALI codes should not be used in a New Freedom Program grant. Other planning activities under program administration should not use planning codes. Planning Activities

funded under New Freedom using program administrative funds should be funded under scope 600 for program administration (11.80.00).

NON-ADD SCOPES

FTA uses non-add scopes in the project budget to track the use of the enhanced Federal share for vehicle related equipment and facilities required for Americans with Disabilities Act of 1990 (ADA) or Clean Air Act (CAA) compliance, for tribal projects, and for other special initiatives including expenditures relating to Intelligent Transportation Systems (ITS). Include under these non-add scopes the portions of ALIs used elsewhere in the project budget for these purposes. The non-add scopes should be included under the “other” heading in the budget so that amounts included in the non-add scopes are not computed in the budget totals.

ACCOUNTING CLASSIFICATION CODES

FTA uses accounting classification codes to indicate the source of funds in a grant. Each digit in the code has a specific meaning. For example, the accounting classification code 2006.25.57.FL.2 provides the following information:

The accounting classification codes have the following structure and meaning:

Positions 1–4: “Year”—indicates the year of appropriation or allocation of the funds.

Positions 5–6: “Appropriations”—indicates which of the several large FTA accounts is being used to fund the grant. For example, “25” represents the Formula and Bus account funded entirely from the Mass Transit Account of the Highway Trust Fund.

Positions 7–8: “Section”—indicates the program under which the funds are being awarded. Many of the codes were established before the FTA Act was codified and refer to the former section numbers in the old statute (e.g., Section 5317 grants utilize Section 57).

Positions 9–10: “Limitation”—allows us to track set-asides, transfers, limits, and special uses. The next two limitation codes indicate the specific program source of the funds. Section 5316 apportionment codes are FL, FM, and FS. The (F) represents the New Freedom Program, (L) represents areas greater than 200k, (M) represents areas between 50K and 200K, and (S) represents areas less than 50K. Funds transferred from Section 5317 to 5311 are coded (N8) and funds transferred from Section 5317 to 5307 are coded (N9).

Position 11: Indicates whether funds are appropriated general funds (1) or contract authority (2). The funds from the Mass Transit Account (“trust funds”) are coded 2 for contract authority.

FINANCIAL PURPOSE CODES

When the funds are obligated for a grant, FTA uses a financial purpose code (FPC) to indicate any broad statutory restrictions on the funds. All funds obligated for capital use FPC 00, for operating use FPC 04 and within the 10 percent cap for program administration use FPC 06. When an ECHO drawdown request is made, grantees replace the X in the project number with a 0 for capital, 4 for operating and 6 for program administration.

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APPENDIX D

SAMPLE APPROVED BUDGET

SAMPLE APPROVED PROJECT BUDGET
GRANTEE: ANY STATE DEPARTMENT OF TRANSPORTATION
CAPITAL, ANY STATE

PROJECT NO.: ST-57-X015-00 BUDGET NO.: 01

	<u>FEDERAL AMOUNT</u>	<u>TOTAL AMOUNT</u>
SCOPE		
111-00 BUS ROLLING STOCK QUANTITY 16.....	\$1,667,220	\$2,084,025
ACTIVITY		
11.12.01 PURCHASE REPLACEMENT <30 FT. BUSES WITH LIFTS QUANTITY 8	\$1,490,000	\$1,862,500
11.12.15 PURCHASE REPLACEMENT VANS WITH LIFTS QUANTITY 8	\$177,220	\$221,525
SCOPE		
300-00 OPERATING ASSISTANCE	\$1,759,408	\$3,518,816
ACTIVITY		
30.09.00 OPERATING ASSISTANCE	\$1,759,408	\$3,518,816
SCOPE		
600-00 OTHER PROGRAM COSTS	\$380,736	\$380,736
ACTIVITY		
11.80.00 PROGRAM ADMINISTRATION	\$380,736	\$380,736
Non Add		
992.nn TRIBAL PROJECT	\$100,000	\$100,000
ACTIVITY		
30.09.00 OPERATING ASSISTANCE	\$100,000	\$100,000
TOTAL	\$3,807,364	\$5,983,577
	\$5,983,577	
ESTIMATED NET PROJECT COST		
FEDERAL SHARE	\$3,807,364	
LOCAL SHARE	\$2,176,213	

SOURCES OF FEDERAL FINANCIAL ASSISTANCE

FUNDING UZA: 250000 FUNDING UZA NAME: ANY STATE

ACCOUNTING CLASSIFICATION	FPC	DESCRIPTION	PREVIOUSLY APPROVED	AMENDMENT <u>AMOUNT</u>	<u>TOTAL</u>
		FY 2006 SEC 5317			
2006.25.57.FL.2	00	CAPITAL		\$1,667,220	\$1,667,220
2006.25.57.FL.2	04	OPERATING		\$1,759,408	\$1,759,408
2006.25.57.FL.2	06	FY 2006, SEC 5316 PROGRAM ADM.		\$380,736	\$380,736
		TOTAL		\$3,807,364	\$3,807,364

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APPENDIX E

FTA REGIONAL AND METROPOLITAN CONTACT INFORMATION

<u>Office</u>	<u>Area Served</u>	<u>Contact Information</u>
Region I	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont	Transportation Systems Center Kendall Square 55 Broadway, Suite 920 Cambridge, MA 02142-1093 Phone: 617-494-2055 Fax: 617-494-2865
Region II	New York and New Jersey	One Bowling Green Room 429 New York, NY 10004-1415 Phone: 212-668-2170 Fax: 212-668-2136
Region III	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia	1760 Market Street Suite 500 Philadelphia, PA 19103-4124 Phone: 215-656-7100 Fax: 215-656-7260
Region IV	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and U.S. Virgin Islands	Atlanta Federal Center Suite 17T50—61 Forsyth Street SW Atlanta, GA 30303 Phone: 404-562-3500 Fax: 404-562-3505
Region V	Illinois, Indiana, Minnesota, Michigan, Ohio, and Wisconsin	200 West Adams Street Suite 320 Chicago, IL 60606 Phone: 312-353-2789 Fax: 312-886-0351
Region VI	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas	819 Taylor Street Room 8A36 Forth Worth, TX 76102 Phone: 817-978-0550 Fax: 817-978-0575
Region VII	Iowa, Kansas, Missouri, and Nebraska	901 Locust, Suite 404 Kansas City, MO 64106 Phone: 816-329-3920 Fax: 816-329-3921

<u>Office</u>	<u>Area Served</u>	<u>Contact Information</u>
Region VIII	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming	12300 W Dakota Avenue Suite 310 Lakewood, CO 80228-2583 Phone: 720-963-3300 Fax: 720-963-3333
Region IX	Arizona, California, Hawaii, Nevada, Guam, American Samoa, and Northern Mariana Islands	201 Mission Street Room 1650 San Francisco, CA 94105-1839 Phone: 415-744-3133 Fax: 415-744-2726
Region X	Alaska, Washington, Oregon, and Idaho	Jackson Federal Building 915 Second Avenue, Suite 3142 Seattle, WA 98174-1002 Phone: 206-220-7954 Fax: 206-220-7959
Lower Manhattan Recovery Office	Lower Manhattan	1 Bowling Green, Room 436 New York, NY 10004 Phone: 212-668-1770 Fax: 212-668-2505
	New York Metropolitan Area	One Bowling Green, Room 428 New York, NY 10004-1415 Telephone: 212-668-2201 Fax: 212-668-2136
Philadelphia Metropolitan Office	Philadelphia Metropolitan Area	1760 Market Street, Suite 510 Philadelphia, PA 19103-4124 Telephone: 215-656-7070 Fax: 215-656-7269
Chicago Metropolitan Office	Chicago Metropolitan Office	200 West Adams Street Suite 2410 (24th floor) Chicago, IL 60606 Telephone: 312-886-1616 Fax: 312-886-0351
Los Angeles Metropolitan Office	Los Angeles Metropolitan Area	888 S. Figueroa, Suite 1850 Los Angeles, CA 90012 Telephone: 213-202-3950 Fax: 213-202-3961
Washington, DC Metropolitan Office	Washington, DC Metropolitan Area	1990 K Street NW Suite 510 Washington, DC 20006 Telephone: 202-219-3562 / 219-3565 Fax: 202-219-3545

APPENDIX F

TECHNICAL ASSISTANCE IN HUMAN SERVICE TRANSPORTATION

The Department of Transportation (DOT), the Federal Transit Administration (FTA), and partners at the Departments of Health and Human Services, Labor, and Education support a range of technical assistance initiatives for coordinating human service transportation. These programs and centers are charged with providing training, resources, and direct assistance to communities and States interested in enhancing the mobility and transportation options for all citizens, including older adults, individuals with disabilities, and people with low incomes. The following list includes technical assistance and training resources available for various aspects of human service transportation:

National Rural Transportation Assistance Program

C/O American Public Works Association
1401 K Street NW., 11th Floor
Washington, DC 20002
202-408-9542
www.APWA.net

The National Rural Transportation Assistance Program (RTAP) was established by FTA in 1987 to provide a wide range of professional services and products. The National RTAP, administered by the American Public Works Association, provides outreach and training to each State's RTAP and coordinates with other organizations involved in rural transit. The National RTAP also works collaboratively with the Community Transportation Association of America to operate a national toll-free telephone line, a Web page, a national peer-to-peer technical assistance network and various presentations and publications and fulfillment services for National RTAP products.

Project ACTION

1425 K Street, Suite 200
Washington, DC 20005
1-800-659-6428
www.projectaction.org

Easter Seals Project ACTION (Accessible Community Transportation in Our Nation) is a national technical assistance project funded through a cooperative agreement with FTA. The mission of Easter Seals Project ACTION is to encourage and facilitate cooperation between the disability and transportation communities with the goal of achieving universal access through transportation for people with disabilities nationwide.

Easter Seals Project ACTION offers various resources, including a toll-free hotline, website, publications clearinghouse, and quarterly newsletter, as well as training and technical assistance, in an effort to make the Americans with Disabilities Act of 1990 (ADA) work for everyone, everyday.

National Job Links Employment Transportation Initiative

341 G Street NW., 10th Floor
Washington, DC 20005
1-800-527-8279

<http://www.ctaa.org/ntrc/atj/joblinks/index.asp>

The National Joblinks Employment Transportation Initiative, known as Joblinks, is funded by the Departments of Transportation and Labor. Joblinks is a program designed to help communities overcome one of the most significant barriers preventing individuals with low incomes from getting and keeping jobs—transportation. Joblinks has a national peer-to-peer network that links local agencies with experienced practitioners familiar with the human services and workforce development environments and knowledgeable about special client transportation needs.

Through Joblinks, communities can receive access to technical assistance and training specialists who can provide solid problem-solving technical support, particularly in the areas of coordinating client transportation resources and operations, marketing, system start-up and financing, human resource management, and developing accessible services. Job Links also supports an on-line information center that connects you with employment transportation news, resources and ideas. Joblinks is administered by the Community Transportation Association of America.

National Technical Assistance Center in Senior Transportation

1425 K Street, Suite 200
Washington, DC 20005
1-800-659-6428

www.projectaction.org

The National TA Center in Senior Transportation focuses on the transportation needs of older adults. The Center conducts analysis of technical assistance needs assist local communities and States. Through analysis and assessment, the national center also provides technical assistance and training on specific strategies for enhancing senior mobility. The Center focuses on a family of services that includes driving transition, travel training for fixed-route bus, paratransit services, and alternative transportation options including door through door, volunteer, and taxi programs.

Intelligent Transportation System (ITS) Peer to Peer Program

Federal Highway Administration
400 Seventh Street Room 3416 Washington, DC 20590
866-367-7487

www.its.dot.gov

The ITS Peer-to-Peer Program provides assistance through its network of over 120 DOT approved ITS professionals who have planned, implemented and operated ITS in urban and rural areas. Most of the Program's Peers are public sector ITS practitioners.

The Peer to Peer Program delivers short term assistance according to an agency's ITS needs. Assistance may include telephone consultations, off-site document reviews, presentations, and visits to the site. The program continues to assist metropolitan and rural clients to create solutions for a variety of highway, transit, and motor carrier interests. The program offers assistance in virtually all areas of ITS planning, design, deployment and operations.

National Transit Institute

120 Albany Street 7th Floor
New Brunswick, N J 08901
732-932-1700

www.ntionline.com

The National Transit Institute at Rutgers University was established in 1992 to conduct training and educational programs related to public transportation. Funded by FTA, NTI's mission is to provide training, education, and clearinghouse services in support of public transportation and quality of life in the United States. Training is available to public transportation agencies, Metropolitan Planning Organizations (MPOs), State Departments of Transportation and other agencies providing transportation services.

Transit Cooperative Research Program

C/O American Public Transportation Association
1666 K Street NW., 11th Floor
Washington, DC 20006
202-496-4800

www.TCRPonline.org

The Transportation Cooperative Research Program (TCRP) is your ticket to information central. Practical research that yields near term results can do much to help—by solving operational problems, adoptions useful technologies from related industries and, in general, finding ways for public transportation to be innovative. Funded by DOT and FTA, the program places primary emphasis on putting the results in the hands of organizational and individuals that can use them to solve problems. The information is easily accessible through print, Web documents, CD ROMS and diskettes, and it is free through the American Public Transportation Association's TCRP Dissemination Center.

Multi-State Technical Assistance Program

C/O American Association of Highway and Transportation Officials
444 North Capitol Street NW., Suite 249
Washington, DC 20001
Telephone: 202-624-3625
Fax: 202-624-3625

www.mtap.org

The purpose of Multi-State Technical Assistance Program (MTAP) is to provide a forum through which State-level public transportation agencies can communicate with each other about Federal transit regulations, grant program management, and technical issues pertaining to everyday administration of public transportation service. MTAP was developed to benefit the member States as well as their Federal program counterparts and local transit operators. Networking among the States is conducted through two annual meetings, peer-to-peer assistance, conference calls, and electronic communication. MTAP is administered by the American Association of State Highway and Transportation Officials (AASHTO).

Appendix G: Relationship between Coordinated Planning and Metropolitan and Statewide Planning

<p>Coordinated Public Transit-Human Services Transportation Plan</p>	<p>Title 49 U.S.C. 5317 requires preparation of a locally developed, coordinated public transit-human services transportation plan (Coordinated Plan) for all FTA human service transportation programs.</p> <p>The Coordinated Plan is required to be developed by a process that includes representatives of public, private and non-profit transportation and human services providers and participation by the public. This Plan includes:</p> <ol style="list-style-type: none"> (1) An assessment of available services that identifies current transportation providers (public, private, and non-profit); (2) An assessment of transportation needs for individuals with disabilities, older adults, and people with low incomes. (3) Strategies, activities and/or projects to address the identified gaps between current services and needs, as well as opportunities to improve efficiencies in service delivery; and (4) Priorities for implementation based on resources (from multiple program sources), time, and feasibility for implementing specific strategies and/or activities identified. <p>The coordinated plan serves as the foundation for the program of projects and should be integrated into the metropolitan and statewide transportation planning processes and documents to demonstrate local policy support and Federal fund eligibility.</p>
<p>Metropolitan Transportation Plan or Statewide Long-Range Transportation Plan</p>	<p>The Metropolitan Transportation Plan (MTP) is the official multimodal transportation plan that is developed, adopted, and updated by the MPO through the metropolitan transportation planning process. The MTP represents the consensus of State and local officials in metropolitan areas of long-range (no less than 20 years) policies and investment priorities for the transportation system. The MTP includes both long-range and short-range program strategies/actions that lead to the development of an integrated intermodal transportation system that facilitates the efficient movement of people and goods.</p> <p>The Statewide Long-Range Transportation Plan is a comparable plan including nonurbanized portions of the State as well as the MTP.</p> <p>The MTP or Statewide Long-Range Transportation Plan has several elements, for example:</p> <ul style="list-style-type: none"> • Identify policies, strategies, and projects for the future; • Determine project demand for transportation services over 20 years; • Focus at the systems level, including roadways, transit, non-motorized transportation, and intermodal connections; • Estimate costs and identify reasonably available financial sources for operation, maintenance, and capital investments; and

	<ul style="list-style-type: none"> • Articulate regional land use, development, housing, mobility, and employment goals and plans. <p><i>Connections to the Coordinated Plan: Projects or Strategies serving human service transportation needs over the 20-year planning horizon should be referenced in the MTP, by direct inclusion or by explicit reference to the Coordinated Plan.</i></p>
<p>Transportation Improvement Program</p>	<p>The Transportation Improvement Program (TIP) is a prioritized, financially constrained four-year program of Federally-supported projects addressing the most immediate implementation priorities from the MTP. The TIP is developed and adopted by the MPO as part of the metropolitan transportation planning process, thereby representing the consensus of State and local decision-makers for allocating funds among the various capital and operating needs of the area.</p> <p>Under Federal law, the TIP:</p> <ul style="list-style-type: none"> • Covers a minimum four-year period of investment and is updated at least every four years; • Is realistic in terms of available funding (known as a fiscally constrained TIP) and is not just a “wish list” of projects; • Is incorporated into the statewide transportation improvement program (STIP); and • Has projects that are drawn from, or consistent with, the MTP. <p><i>Connections to the Coordinated Plan: All strategies proposed for funding under FTA’s human services transportation programs are required to be listed in the TIP, which may include specific projects or more aggregated program-level information. For Example: a non-profit job-access vanpool service could be listed in the TIP if it received New Freedom funding Federal grant or the TIP may just reference the amount of New Freedom funding available to the area on an annual basis.</i></p>

<p>Statewide Transportation Improvement Program</p>	<p>The Statewide Transportation Improvement Program (STIP) is a statewide prioritized, financially constrained four-year program of Federally-supported projects that is consistent with the Long-Range Statewide Transportation Plan, MTPs, and TIPs. Joint approval by FTA and FHWA of the STIP renders the projects, programs, and strategies contained eligible for funding under FTA and FHWA programs.</p> <p>Under Federal law, the STIP:</p> <ul style="list-style-type: none">• Covers a minimum four-year period of investment and is updated at least every four years;• Is realistic in terms of available funding (known as a fiscally constrained STIP) and is not just a “wish list” of projects; and• Contains the projects, strategies, and programs of TIPs from throughout the State, as well as projects, programs, and strategies from non-metropolitan areas. <hr/> <p><i>Connections to the Coordinated Plan: All strategies proposed for funding under FTA’s human services transportation programs are required to be listed in the STIP, which may include discreet projects or more aggregated program-level information. For Example: a non-profit job-access vanpool service could be listed in the STIP if it received New Freedom funding Federal grant or the STIP may just reference the amount of New Freedom funding available to the area on an annual basis. Strategies and/or projects that receive Federal funding are required to be listed in the STIP—verbatim or by reference to—the project listing included in TIPs of metropolitan areas of the State.</i></p>
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<p>Program of Projects</p>	<p>A Program of Projects listing is required by FTA for processing Federal grants under the New Freedom Program. It identifies Federal allocations for each fiscal year of the grant.</p> <p>The program of projects is submitted to FTA for approval with the TEAM grant application. The program of projects lists the subrecipients and indicates whether they are private non-profit agencies, governmental authorities, or private operators of public transportation services, and in the case of a State application, designates whether they serve urbanized or nonurbanized populations, and identifies any Indian tribal agencies. In addition, the program of projects includes a brief description of the projects, total project costs and the 5310, JARC, or New Freedom share for each project. The amount of funds required for planning, technical assistance, and program administration is also laid out in the program of projects.</p>
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APPENDIX H

REFERENCES

- a. Federal Transit Laws, Title 49, United States Code, Chapter 53.
- b. Federal-aid highway and surface transportation laws, Title 23, United States Code.
- c. Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, (SAFETEA-LU) (Pub. L. 109-59, 119 Stat. 1144, Aug. 10, 2005).
- d. Transportation Equity Act for the 21st Century (TEA-21) (Pub. L. 105-178, 112 Stat. 107, June 9, 1998).
- e. Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102-240, 105 Stat. 1914, Dec. 18, 1991).
- f. Federal Public Transportation Act of 1978 (Pub. L. 95-599, Nov. 6, 1978).
- g. Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 et seq.
- h. Government Performance Results Act of 1993, as amended (Pub. L. 103-62, 107 Stat. 285, Aug. 3, 1993).
- i. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794.
- j. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d.
- k. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e.
- l. Clean Air Act, as amended, 42 U.S.C. 7401 et seq.
- m. Section 404 of the Clean Water Act, as amended, 33 U.S.C. 1344.
- n. Policy on Lands, Wildlife, and Waterfowl Refuges, and Historic Sites, 49 U.S.C. 303.
- o. Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f.
- p. Internal Revenue Code, Non-profit Organizations, 26 U.S.C. 501.
- q. Lobbying Restrictions, 31 U.S.C. 1352.
- r. Disadvantaged Business Enterprises, 23 U.S.C. 101 note.
- s. Congressional Declaration of Policy Respecting Insular Areas, 48 U.S.C. 1469a.

- t. Program Fraud Civil Remedies Act, 31 U.S.C. 3801 et seq.
- u. Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended, 42 U.S.C. 4601, et seq.
- v. Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq.
- w. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et seq.
- x. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 et seq.
- y. Federal Funding Accountability and Transparency Act of 2006 (Pub. L 109–282, 120 Stat. 1186, Sept. 26, 2006).
- z. Davis-Bacon Act, as amended, 40 U.S.C. 3141 et seq.
- aa. Drug-Free Workplace Act of 1988, as amended, 41 U.S.C. 701 et seq.
- bb. U.S. DOT regulations, “Organization and Delegation of Powers and Duties,” 49 CFR part 1.
- cc. U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” 49 CFR part 18.
- dd. U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,” 49 CFR part 19.
- ee. U.S. DOT regulations, “New Restrictions on Lobbying,” 49 CFR part 20.
- ff. U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964,” 49 CFR part 21.
- gg. U.S. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs,” 49 CFR part 24.
- hh. U.S. DOT regulations “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR part 25.
- ii. U.S. DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 CFR part 26.
- jj. U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance,” 49 CFR part 27.

- kk. U.S. DOT regulations, “Governmentwide Debarment and Suspension (Nonprocurement),” 49 CFR part 29.
- ll. U.S. DOT regulations, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance),” 49 CFR part 32.
- mm. U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR part 37.
- nn. U.S. DOT regulations, “Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles,” 49 CFR part 38.
- oo. U.S. DOT regulations, “Procedures for Transportation Workplace Drug and Alcohol Testing Programs,” 49 CFR part 40.
- pp. FTA regulations, 49 CFR Subtitle B Chapter VI.
- qq. Joint Federal Highway Administration/FTA regulations, “Planning Assistance and Standards,” 23 CFR part 450 and 49 CFR part 613.
- rr. Joint Federal Highway Administration/FTA regulations, “Environmental Impact and Related Procedures,” 23 CFR part 771 and 49 CFR part 622.
- ss. Federal Motor Carrier Safety Administration regulations, “Controlled Substances and Alcohol Use and Testing,” 49 CFR part 382.
- tt. U.S. Department of Treasury regulations, “Rules and Procedures for Efficient Federal-State Funds Transfers,” 31 CFR part 205.
- uu. U.S. Environmental Protection Agency regulations, “Determining Conformity of Federal Actions to State or Federal Implementation Plans,” 40 CFR part 93.
- vv. Executive Order 12372, “Intergovernmental Review of Federal Programs,” July 14, 1982.
- ww. Executive Order 12898, “Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations,” Feb. 11, 1994.
- xx. Executive Order 13217, “Community-Based Alternatives for Individuals with Disabilities,” June 18, 2001.
- yy. Executive Order 13330, “Human Service Transportation Coordination,” Feb. 24, 2004.
- zz. Office of Management and Budget Circular A-87, “Cost Principles for State, Local, and Indian Tribal Governments,” codified at 2 CFR part 225, Aug. 31, 2005.

- aaa. Office of Management and Budget Circular A-94, "Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs," Oct. 29, 1992.
- bbb. Office of Management and Budget Circular A-122, "Cost Principles for Non-Profit Organizations," codified at 2 CFR part 230, Aug. 31, 2005.
- ccc. Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," June 23, 2003.
- ddd. U.S. Department of Transportation Order to Address Environmental Justice in Minority Populations and Low-Income Populations, 62 FR 18377 (Apr. 15, 1997).
- eee. U.S. DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons, 70 FR 74087 (Dec. 14, 2005).
- fff. FTA Circular 4220.1E, "Third Party Contracting Requirements," June 19, 2003.
- ggg. FTA Circular 4702.1, "Title VI Program Guidelines for FTA Recipients," Oct. 1, 1998.
- hhh. FTA Circular 5010.1C, "Grant Management Guidelines," Oct. 1, 1998.
- iii. FTA Circular 9030.1C, "Urbanized Formula Program Guidance and Application Instructions," Oct. 1, 1998.
- jjj. U.S. General Services Administration, "Excluded Parties List System," www.epls.gov.
- kkk. FTA Master Agreement FTA MA(13), Oct. 1, 2006.
- lll. FTA ECHO-Web System Operations Manual.
<http://www.fta.dot.gov/documents/ECHOWebGranteeUserManual.pdf>.
- mmm. *Olmstead v L.C.*, 527 U.S. 581 (1999).

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