

Applicability Webinar Q&A (1/21/20)

General

Are transit agencies required to submit their final Agency Safety Plan (ASP) to FTA?

Are tribal transit agencies required to develop an Agency Safety Plan (ASP)?

Small Public Transportation Provider Determination

Are vehicles that are not used for transit service included in the vehicles operated in maximum service (VOMS) count? Note: FTA uses VOMS, as reported to the National Transit Database (NTD), to classify transit providers as small public transportation providers.

Our transit agency has only one demand response vehicle operated in maximum service (VOMS) and one fixed-route VOMS. Does the Public Transportation Agency Safety Plan (PTASP) regulation still apply to us?

Small Public Transportation Provider Requirements

Is a small public transportation provider required to have a Chief Safety Officer (CSO)?

What process should a small public transportation provider use to “opt out” and develop their own Agency Safety Plan (ASP) instead of having the State develop it for them?

State Requirements

If a small public transportation provider is a direct Urbanized Area Formula Funding (Section 5307) recipient, is the State responsible for developing their Agency Safety Plan (ASP)?

If our agency is a small public transportation provider that receives Urbanized Area Formula Funding (Section 5307) grants and we have a subrecipient who is also a small public transportation provider, do we have to develop an Agency Safety Plan (ASP) for our subrecipient even though the State is developing our ASP?

We are a small public transportation provider that has opted to develop our own Agency Safety Plan (ASP). Does our State still need to approve our ASP?

Contracted Service

We are a direct recipient of Urbanized Area Formula Funding (Section 5307) funding, but at this time our public transportation services are fully brokered via contract (our provider is not a subrecipient). Is our agency responsible for developing and implementing the Agency Safety Plan (ASP)?

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

General

If you would like to review this webinar, a [PDF of the presentation](#) and the [voice recording](#) of this webinar are available on the [Technical Assistance Center \(TAC\) website](#).

Are transit agencies required to submit their final Agency Safety Plan (ASP) to FTA?

No, transit agencies are not required to submit their final ASPs to FTA. Recipients of Urbanized Area Formula Funding (Section 5307) grants, rail transit agencies in the State Safety Oversight program, and States will certify by the compliance deadline (and annually thereafter) that they have met all applicable requirements established in the Public Transportation Agency Safety Plan (PTASP) regulation (49 CFR Part 673). FTA will use its existing Triennial Review process to confirm PTASP regulation compliance.

On April 22, 2020, the FTA published a [Notice of Enforcement Discretion](#) that effectively changes the PTASP regulation deadline to December 31, 2020.

Are tribal transit agencies required to develop an Agency Safety Plan (ASP)?

At the present time, the Public Transportation Agency Safety Plan (PTASP) regulation is not applicable to tribal transit systems, unless they are recipients or subrecipients of Urbanized Area Formula Funding (Section 5307) funds.

Small Public Transportation Provider Determination

Are vehicles that are not used for transit service included in the vehicles operated in maximum service (VOMS) count? *Note: FTA uses VOMS, as reported to the National Transit Database (NTD), to classify transit providers as small public transportation providers.*

No, VOMS does not include vehicles that are not providing public transportation service. FTA defines VOMS as “the number of revenue vehicles an agency operates to meet the annual maximum service requirement.” FTA’s definition of VOMS also excludes “atypical days” or “one-time special events.” See the [NTD Reporting Policy Manual](#) for the full definition.

Our transit agency has only one demand response vehicle operated in maximum service (VOMS) and one fixed-route VOMS. Does the Public Transportation Agency Safety Plan (PTASP) regulation still apply to us?

Yes, if your transit agency provides public transportation service and is a recipient or subrecipient of Urbanized Area Formula Funding (Section 5307) funds, the PTASP regulation applies to your agency.

Small Public Transportation Provider Requirements

Is a small public transportation provider required to have a Chief Safety Officer (CSO)?

Yes, a small public transportation provider must have a CSO. However, in some instances, especially with small transit agencies, a single individual may serve in both the Accountable Executive role and the CSO role. (Note that for small transit agencies, the CSO may also hold additional duties, such as in operations and maintenance.) For more information, please refer to FTA's [CSO SMS Executive Fact Sheet](#).

What process should a small public transportation provider use to “opt out” and develop their own Agency Safety Plan (ASP) instead of having the State develop it for them?

The Public Transportation Agency Safety Plan regulation does not require a specific process for small public transportation providers to “opt out” and develop their own ASP. However, it is important for a small public transportation provider and State to communicate with each other about ASP development. FTA encourages small public transportation providers to notify their State in writing of their decision to “opt out” to support record keeping. Additionally, FTA published the [Guide to “Opting Out” of an Agency Safety Plan Developed by State Department of Transportation](#) that provides sample notification text.

State Requirements

If a small public transportation provider is a direct Urbanized Area Formula Funding (Section 5307) recipient, is the State responsible for developing their Agency Safety Plan (ASP)?

Yes, a State has the responsibility to develop an ASP for any small public transportation provider in the State, regardless of whether that provider is a direct recipient of Section 5307 funds, a subrecipient of the State, or a subrecipient of another entity. However, if a small public transportation provider opts to develop its own ASP and notifies the State of its intent to do so, the State is no longer required to develop the ASP for the small public transportation provider.

If our agency is a small public transportation provider that receives Urbanized Area Formula Funding (Section 5307) grants and we have a subrecipient who is also a small public transportation provider, do we have to develop an Agency Safety Plan (ASP) for our subrecipient even though the State is developing our ASP?

No, the State is required to develop an ASP for all small public transportation providers in the State. This includes a small public transportation provider that may be a subrecipient of another small public transportation provider.

We are a small public transportation provider that has opted to develop our own Agency Safety Plan (ASP). Does our State still need to approve our ASP?

No, the Public Transportation Agency Safety Plan regulation does not require the State to approve the ASP drafted by a small provider. Once you have opted to develop your own ASP and have notified the State of your decision, the development and approval of your plan is your agency's responsibility.

Contracted Service

We are a direct recipient of Urbanized Area Formula Funding (Section 5307) funding, but at this time our public transportation services are fully brokered via contract (our provider is not a subrecipient). Is our agency responsible for developing and implementing the Agency Safety Plan (ASP)?

Yes, if you are not a small public transportation provider (see below), as the purchaser of transit services, you are responsible for meeting the requirements of the Public Transportation Agency Safety Plan regulation. Your agency could request that your contractor develop elements of your agency's ASP, but your agency, as the recipient of Section 5307 funds, is ultimately responsible for ensuring compliance with the regulation and certifying compliance annually—not the contractor. Alternatively, your agency could develop the ASP and ensure that your contractor follows it.

If you are a small public transportation provider, your State is responsible for developing your ASP **unless** your agency has opted out of a State-developed plan. (A small public transportation provider is a recipient or subrecipient of Federal financial assistance under Section 5307 that does not operate any rail service and operates 100 or fewer vehicles in non-rail modes during peak revenue service. All fixed-route service counts as a single mode, and each non-fixed-route mode counts individually.)