



U.S. Department  
of Transportation

**Federal Transit  
Administration**

# PROPOSED CIRCULAR

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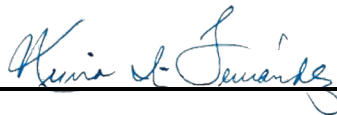
Month X, 202X

## **Subject: GRANT PROGRAMS FOR URBANIZED AREAS: PROGRAM GUIDANCE AND APPLICATION INSTRUCTIONS**

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1. PURPOSE. This circular is a consolidation of guidance for the preparation of grant applications and the administration of grants for the Urbanized Area Formula Grants Program under 49 United States Code (U.S.C.) 5307, the State of Good Repair Grants Program under 49 U.S.C. 5337, and the Urbanized Area formula component of the Grants for Buses and Bus Facilities Program under 49 U.S.C. 5339(a). This circular incorporates provisions of the Fixing America's Surface Transportation Act (FAST Act; Pub. L. 114-94 (2015)) and the Infrastructure Investment and Jobs Act (IIJA; Pub. L. 117-58 (2021)) and incorporates the most current guidance as of the date of publication. Additional requirements for all grant programs are identified in Award Management Requirements (Circular 5010.1.F).
2. CANCELLATION. This cancels:
  - a. FTA Circular 5100.1, "Bus and Bus Facilities Program: Guidance and Application Instructions," dated May 18, 2015.
  - b. FTA Circular 5300.1, "State of Good Repair Grants Program: Guidance and Application Instructions," dated February 28, 2015.
  - c. FTA Circular 9030.1E, "Urbanized Area Formula Program: Program Guidance and Application Instructions," dated January 16, 2014.
3. AUTHORITY.
  - d. Federal Transit Laws, Title 49 U.S.C. Chapter 53.
  - e. 49 CFR Part 1.91.
4. WAIVER. The Federal Transit Administration (FTA) reserves the right to waive any provisions of this circular to the extent permitted by Federal law or regulation.

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5. FEDERAL REGISTER NOTICE. In conjunction with publication of this circular when final, a Federal Register notice will be published to address comments received during the development of the circular.
  6. AMENDMENTS TO THE CIRCULAR. FTA reserves the right to update this circular to reflect changes in other revised or new guidance and regulations that undergo notice and comment, without further notice and comment on this circular. FTA will post updates on the [FTA website](#). The website allows the public to register for notification when FTA issues Federal Register notices or new guidance. Please visit the website and click on “Subscribe for Email Updates” for more information.
  7. ACCESSIBLE FORMATS. This document is available in accessible formats upon request. To obtain paper copies of this circular as well as information regarding these accessible formats, call FTA’s Administrative Services Help Desk at 202-366-4865. Individuals with hearing impairments may contact the Federal Relay Service at 1-800-877-8339 for assistance with the call.



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Nuria I. Fernandez  
Administrator

**PROGRAM CIRCULAR FOR SECTIONS 5307, 5337, AND 5339**

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**CHAPTER I:****INTRODUCTION AND BACKGROUND**

1. **THE FEDERAL TRANSIT ADMINISTRATION.** FTA is one of 10 modal administrations within the U.S. Department of Transportation (DOT) and is headed by an administrator appointed by the President of the United States. FTA functions through a headquarters office in Washington, DC, 10 regional offices, and several metropolitan offices. These offices assist transit agencies in all 50 States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, including federally recognized Indian Tribes.

Public transportation is defined in 49 U.S.C. 5302 as regular, continuing shared-ride surface transportation services that are open to the general public or a segment of the general public defined by age, disability, or low income. Public transportation generally includes transportation services provided by buses, heavy rail, light rail, commuter rail, hybrid rail, bus rapid transit, passenger ferryboats, trolley buses, inclined railways, people movers, van pools, streetcars, jitneys, and aerial tramways. Public transportation can be either fixed-route or demand response service, but excludes intercity passenger rail provided by Amtrak, intercity bus service, charter bus service, school bus service, sightseeing services, courtesy shuttle services provided by individual businesses, and intra-terminal or intra-facility shuttle services.

The Federal Government, through FTA, provides financial assistance to develop new transit systems and improve, maintain, and operate existing systems. FTA oversees thousands of awards to hundreds of State and local transit providers, primarily through its 10 regional offices. These recipients are responsible for managing their programs in accordance with Federal requirements, and FTA is responsible for ensuring that recipients follow Federal statutory and administrative requirements.

2. **AUTHORIZING LEGISLATION AND GUIDANCE.** Most Federal transit laws are codified at Title 49 U.S.C. Chapter 53. Authorizing legislation enacted by Congress establishes or continues the legal operation of a Federal program or agency. FTA's most recent authorizing legislation is the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-582, signed into law on November 15, 2021, and effective on October 1, 2021. This circular reflects changes to Federal transit law as well as changes required by other laws that have become effective since Circulars 5100.1 (2015), 5300.1 (2015), and 9030.1E (2014) were last published, including the FAST Act, Pub. L. 114.94, signed into law on December 4, 2015.
3. **HOW TO CONTACT FTA.** FTA's regional and metropolitan offices are responsible for managing financial assistance to FTA recipients and oversight of implementation for most FTA programs. Certain programs are the responsibility of FTA's headquarters offices. Inquiries should be directed to either the regional or metropolitan office responsible for the geographic area in which the recipient is located. See [FTA's website](#) for contact information.

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

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

4. DEFINITIONS AND ACRONYMS. For the purposes of this circular, all definitions in 49 U.S.C. 5302, 5303, 5337, and 5339, and 2 CFR Part 200 apply, as well as the following definitions:
  - a. Definitions.
    - (1) Applicant: An entity that is seeking, but has not yet been awarded, specific Federal financial assistance directly from FTA in the form of a grant or cooperative agreement.
    - (2) Award: Federal assistance FTA provides to the recipient to carry out FTA's approved scope of work. The award also includes the requirements of all documents, terms, and conditions incorporated by reference and made part of the grant or cooperative agreement.
    - (3) Associated Capital Maintenance: A category of capital project activities that is defined as equipment, tires, tubes, and material, each costing at least 0.5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used; and the reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least 0.5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used. See 49 U.S.C. 5302.
    - (4) Associated Transit Improvement: With respect to any project or area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are: historic preservation, rehabilitation, and operation of historic public transportation buildings, structures, and facilities (including historic bus and railroad facilities) intended for use in public transportation service; bus shelters; functional landscaping and streetscaping including benches, trash receptacles, and street lights; pedestrian access and walkways; bicycle access, including bicycle storage shelters and parking facilities and the installation of equipment for transporting bicycles on public transportation vehicles; signage; or enhanced access for persons with disabilities to public transportation. See 49 U.S.C. 5302.



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- (5) Beneficiary: An organization that benefits from a Federal grant that is neither a direct recipient nor a subrecipient of the grant. For example, a transit operator that services a passenger facility funded by a Federal grant and owned and operated by another organization. For example, a transit operator that benefits from the use of a vehicle or facility funded by a Federal grant at below-market rates (e.g. a federally-funded vehicle leased to the transit operator for \$1.) Beneficiaries of the urbanized area formula program are required to report to the National Transit Database. (See 49 USC 5335.) It is the responsibility of recipients to ensure that any beneficiaries of their grants fulfill their NTD reporting requirements.
- (6) Bus Rapid Transit System: A bus transit system (A) in which the majority of each line operates in a separated right-of-way dedicated for public transportation use during peak periods; and (B) includes features that emulate the services provided by rail Fixed Guideway public transportation systems, including (i) defined stations; (ii) traffic signal priority for public transportation vehicles; (iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and separate branding. See 49 U.S.C. 5302(3).
- (7) Capital Asset: A unit of rolling stock, land, a facility, a unit of equipment, an element of infrastructure, or intellectual property (including software) with a useful life of more than one year that are capitalized in accordance with Generally Accepted Accounting Principles. Capital asset also includes an addition, improvement, modification, replacement, rearrangement, reinstallation, renovation, or alterations to capital assets that materially increase the value of the asset (apart from ordinary repairs and maintenance.) Capital assets do not include intangible right-to-use assets (per Governmental Accounting Standards Board) and right-to-use operating lease assets (per Financial Accounting Standards Board). For example, the term capital asset excludes capitalized assets that recognize a lessee's right to control the use of property and/or equipment for a period of time under a lease contract. Associated capital maintenance, includes:
- (a) Equipment, tires, tubes, and material, each costing at least 0.5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used; and
  - (b) Reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least 0.5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used.
- (8) Capital Project: A category of reimbursable project expenses that includes all activities identified in 49 U.S.C. 5302(4).
- (9) Clean Fuel Bus: A passenger bus used to provide public transportation that is powered by compressed natural gas (CNG), liquefied natural gas (LNG), propane (including liquefied propane gas (LPG)), batteries, alcohol-based fuels, hybrid or full electric, fuel cell, clean diesel, or other low or zero emissions technology that

the Administrator of the Environmental Protection Agency has certified sufficiently reduces harmful emissions.

- (10) Commuter Bus: A local fixed-route bus transportation primarily connecting outlying areas with a central city. Commuter bus is characterized by usually using a motorcoach (over-the-road bus), having multiple-trip tickets, multiple stops in outlying areas and limited stops in the central city, and having at least five miles of closed-door service. In commuter service, 50 percent or more of the passengers boarding at each key bus station over the full route must make a same-day return trip; otherwise, the service is an intercity service. A key bus station is a station at the end of a line, a major transfer point, or one that otherwise accounts for a substantial portion of the boardings.
- (11) Commuter Rail: A local passenger rail transportation usually having multiple-ride tickets and having, at a minimum, operations during morning and evening peak periods. Commuter rail is characterized by service with relatively long distances between stops, connecting a central city with outlying areas. In commuter service, 50 percent or more of the passengers boarding at a significant rail station over the full route must make a same-day return trip; otherwise, the service is an intercity service. A significant rail station is a station at the end of a line, a major transfer point, or one that otherwise accounts for a substantial portion of the boardings. Commuter rail excludes services provided by Amtrak. In particular, services that use Amtrak branding, are included in Amtrak's schedules, use Amtrak's ticketing systems, participate in Amtrak's customer loyalty program, and/or benefit from Amtrak's priority access to Class I railroads are all excluded. These services are considered to be intercity rail. Also includes systems FTA grandfathered as commuter rail in 2012 .
- (12) Coordinated Plan: See "Locally Developed, Coordinated Public Transit–Human Services Transportation Plan."
- (13) Demand Response or Demand Responsive Service: Any non-fixed route system of transporting individuals that requires advanced scheduling by the customer, including services provided by public entities, nonprofits, and private providers.
- (14) Designated Recipient: An entity designated, in accordance with the planning process under Sections 5303 and 5304, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under 49 U.S.C 5336 to urbanized areas with 200,000 or more in population; or a State or regional authority, if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation. See 49 U.S.C. 5302.
- (15) Direct Recipient: An entity that receives funding directly from FTA.
- (16) Discretionary Award: An award in which the Federal awarding agency, in keeping with specific statutory authority that enables the agency to exercise judgment

(“discretion”), selects the recipient and/or the amount of Federal funding awarded through a competitive process or based on merit of proposals. A discretionary award may be selected on a non-competitive basis, as appropriate. 2 CFR 200.1. A discretionary award may also be known as a competitive award.

- (17) Electronic Clearing House Operation (ECHO) System: An FTA web-based application system that processes payment requests and FTA recipients.
- (18) Equipment: Tangible property (including Information Technology (IT) systems) having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the recipient for financial statement purposes, or \$5,000. (2 CFR 200.1.) Equipment includes rolling stock, computing devices, IT systems, and all other such property used in the provision of public transit service.
- (19) Facilities: All or any portion of a building or structure that is used in providing public transportation, including related roads, sidewalks, parking lots, and parking facilities. Additionally, this includes fixed fueling infrastructure (e.g., charging stations, fueling islands, etc.)
- (20) Fair Market Value: Fair market value means the most probable price that project property would bring in a competitive and open market.
- (21) Federal Interest: For purposes of reporting on real property or when used in connection with the acquisition, improvement, or disposition of real property, equipment, or supplies under a Federal award, Federal interest means the dollar amount that is the product of (1) the Federal percentage of participation in the cost of the original purchase, improvements, or both, and (2) the current fair market value of the property.
- (22) Federal Share: The portion of the total award budget of a grant or cooperative agreement that is paid with Federal assistance.
- (23) Fixed Guideway: A public transportation facility (i) using and occupying a separate right-of-way for the exclusive use of public transportation; (ii) using rail; (iii) using a fixed catenary system; (iv) for a passenger ferry system; or (v) for a bus rapid transit system. See 49 U.S.C. 5302(8).
- (24) Fixed-Route System: Public transportation service provided in vehicles operated along predetermined routes according to a fixed schedule. Deviated fixed-route systems are considered to be fixed-route systems.
- (25) Fleet Management Plan: The management plan includes an inventory of all rolling stock and other items, such as operating policies, peak vehicle requirements, maintenance and overhaul programs, system and service expansions, rolling stock procurements and related schedules, and spare ratio justification. The plan also calculates the number of rolling stock units needed to operate at peak normal days.

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- (26) Fleet Status Report: A report in FTA’s transit award management system that identifies rolling stock to be replaced, retired, or disposed.
- (27) Force Account: The use of a recipient or subrecipient’s own labor force to accomplish a capital project. Force account does not include grant or project administration, preventive maintenance, mobility management, or other nontraditional capital project types.
- (28) Governor: The governor of a State, the mayor of the District of Columbia, and the chief executive officer of a territory of the United States; this includes the designee of the governor.
- (29) Grant: An award of financial assistance in the form of money, or property in lieu of money, by the Federal government to an eligible recipient. Used interchangeably with Grant Agreement.
- (30) Grant Agreement: A legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302, 6304: (1) Is used to enter into a relationship the principal purpose of which is to transfer anything of value to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal awarding agency or pass-through entity's direct benefit or use; (2) Is distinguished from a cooperative agreement in that it does not provide for substantial involvement of the Federal awarding agency in carrying out the activity contemplated by the Federal award; and (3) Does not include an agreement that provides only: (i) Direct United States Government cash assistance to an individual; (ii) A subsidy; (iii) A loan; (vi) A loan guarantee; or (v) Insurance. See 2 CFR 200.1.
- (31) Grant Application: A complete application for an award of financial assistance in the form of money, or property in lieu of money, by the Federal government to an eligible recipient.
- (32) Growing States: States forecasted to expand in population size based upon annual population estimates and estimates determined by the decennial census. See 49 U.S.C. 5340(c)(1).
- (33) High Density States: States with population densities in excess of 370 persons per square mile. See 49 U.S.C. 5340(d)(1).
- (34) High Intensity Fixed Guideway: Same definition as “Fixed Guideway” at 49 U.S.C. 5302. This term is used in IIJA to describe the specific tier of the formula for Fixed Guideway systems as opposed to the high intensity motorbus tier. See 49 U.S.C. 5337(a)(1).
- (35) High Intensity Motorbus: Public transportation that is provided on a facility with access for other high-occupancy vehicles. See 49 U.S.C. 5337(d)(1).

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- (36) Incidental Use: Incidental use occurs when FTA grant recipients allow the use of a federally funded asset (e.g., van) by another public or private entity for non-transit purposes. The non-transit activity may not reduce or limit transit service. Incidental use of federally funded assets is permitted for recipients of funding under all FTA grant programs.
- (37) In-Kind Contributions: Non-cash contributions (i.e., property or services) that (1) benefit a Federally assisted project or program, and (2) are contributed by non-Federal third parties, without charge, to a recipient or subrecipient under a Federal award. See 2 CFR 200.1.
- (38) Intelligent Transportation Systems (ITS): Electronics, communications, or information processing used singly, or in combination, to improve efficiency or safety of a transit or highway system.
- (39) Job Access and Reverse Commute (JARC) Project: A category of reimbursable project expenses that includes activities identified under 49 U.S.C. 5302(10), as explained in Chapter IV of this circular.
- (40) Joint Development: Public transportation improvements that enhance economic development or incorporate private investment and that otherwise meet the statutory terms found at 49 U.S.C. 5302. Please also reference Guidance on Joint Development (Circular 7050.1B).
- (41) Large Urbanized Area: An urbanized area (UZA) with a population of at least 200,000 at the time of the most recent decennial census.
- (42) Local Governmental Authority: A political subdivision of a State, an authority of at least one State or political subdivision of a State, an Indian Tribe, or a public corporation, board, or commission established under the laws of a State.
- (43) 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.
- (44) Low-Income Individual: An individual whose family income is at or below 150 percent of the poverty line, as that term is defined in Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.
- (45) Maintenance Area: Any geographic region of the United States that the Environmental Protection Agency previously designated as a nonattainment area for one or more pollutants pursuant to the Clean Air Act (CAA) Amendments of 1990, and subsequently redesignated as an attainment area subject to the requirement to develop a maintenance plan under Section 175A of the CAA, as amended (See 42 U.S.C. 7401 et seq).

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- (46) Major Capital Project: A project that (1) involves the construction, expansion, rehabilitation, or modernization of a Fixed Guideway that (i) has a total project cost of \$300 million or more and receives Federal funds of \$100 million or more; and (ii) is not exclusively for the acquisition, maintenance, or rehabilitation of vehicles or other rolling stock; or (2) The Administrator determines to be a major capital project because project management oversight under 49 CFR Part 633 will benefit the Federal government or the recipient, and the project is not exclusively for the acquisition, maintenance, or rehabilitation of rolling stock or other vehicles. Typically, this means a project that (i) involves new technology; (ii) is of a unique nature for the recipient; or (iii) involves a recipient whose past record indicates the appropriateness of extending project management oversight under 49 CFR Part 633. See 49 CFR 633.19.
- (47) Master Agreement: The FTA document containing FTA and other crosscutting Federal requirements applicable to the FTA recipient's award. FTA updates the Master Agreement from time to time and publishes the latest version and superseded versions on its public website. The Master Agreement is incorporated by reference and made part of each FTA grant or cooperative agreement, and each amendment thereto.
- (48) Metropolitan Planning Area (MPA): The geographic area determined by agreement between the Metropolitan Planning Organization (MPO) for the metropolitan area and the Governor of the State, within which the metropolitan transportation planning process is carried out. See 49 U.S.C. 5303.
- (49) Metropolitan Planning Organization (MPO): The policy board of an organization designated by agreement between the Governor and units of general purpose local government to carry out the metropolitan planning process, including development of long-range transportation plans and Transportation Improvement Programs (TIP) for metropolitan planning areas of a State. 49 U.S.C. 5303. The process and requirements of MPO designation are described at 23 CFR 450.310.
- (50) Minimum Useful Life: The minimum acceptable period a capital asset purchased with FTA funds must be used in service prior to being replaced or removed from service. The minimum useful life for rolling stock is calculated based on the date the vehicle is placed in revenue service. Land does not have a useful life. However, real property improvements on land such as construction, buildings, and other fixtures usually have a useful life.
- (51) Mobility Management: A capital project activity that consists of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a government entity, under 49 U.S.C. Chapter 53 (other than 49 U.S.C. 5309) but excludes operation of public transportation services. Mobility management is a type of capital project.



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- (52) National Environmental Policy Act (NEPA): NEPA (42 U.S.C. 4321 et seq.) established the Council on Environmental Quality (CEQ) and requires Federal agencies to assess the environmental effects of proposed major Federal actions prior to making decisions. CEQ's NEPA regulations are codified at 40 CFR Parts 1500-1508. FTA jointly administers along with FHWA and FRA regulations to implement NEPA and supplement CEQ's regulations, which are codified at 23 CFR part 771.
- (53) National Transit Database (NTD): FTA's primary source for information on the transit industry. Most recipients and subrecipients of FTA funds are required to report to the NTD.
- (54) Net Project Cost: The part of a project that reasonably cannot be financed from revenues. See 49 U.S.C. 5302(13). Revenues, in this instance, means farebox revenues.
- (55) New Bus Model: A bus model (including a model using alternative fuel) that has not been used in public transportation in the United States before the date of production of the model or has been used in public transportation in the United States but is being produced with a major change in configuration or components. See 49 U.S.C. 5302.
- (56) Nonattainment Area: Any geographic region of the United States that has been designated by EPA as a nonattainment area under Section 107 of the Clean Air Act for any pollutants for which National Ambient Air Quality Standards exist. See 42 U.S.C. 7401 et seq.
- (57) Nonprofit Organization: A corporation or association determined by the Secretary of the Treasury to be an organization qualifying under 26 U.S.C. 501(c) as exempt from taxation under 26 U.S.C. 501(a), or which has been determined under State law to be nonprofit and for which the designated State agency has received documentation certifying the status of the nonprofit organization.
- (58) Operating Expenses (interchangeable with Operating Costs): The costs necessary to operate, maintain, and manage a public transportation system. Operating expenses usually include such costs as driver salaries, fuel, and items having a useful life of less than one year.
- (59) Overhaul: The systematic replacement or upgrade of revenue and non-revenue systems of a vehicle, the useful life of which is less than the useful life of the entire vehicle, in a programmed manner. Overhaul is performed as a planned or concentrated preventive maintenance activity and is intended to enable the vehicle to perform to the end of its original useful life. Compare with "Rebuild."
- (60) Paratransit: Comparable transportation service required by the Americans with Disabilities Act (ADA) for individuals with disabilities who are unable to use fixed route transportation systems, as described in 49 CFR Part 37, Subpart F.

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- (61) Passenger Ferry: A vessel providing regular and continuing shared-ride service that regularly accommodates walk-on passengers not traveling in motor vehicles. Passenger ferries may or may not also accommodate private passenger vehicles with the walk-on passengers. A passenger ferry is a type of Fixed Guideway public transportation and excludes sightseeing service.
- (62) Pre-award Authority: The authority FTA extends to an anticipated recipient, in writing, to incur otherwise allowable project costs before the effective date of a Federal award. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the written approval of FTA. Failure to comply with applicable Federal requirements will render those project costs or, in certain cases, the project in its entirety, to be ineligible for FTA assistance. See 2 CFR 200.458.
- (63) Preventive Maintenance: All maintenance costs related to capital assets. Specifically, preventive maintenance includes all the activities, supplies, materials, labor, services, and associated costs required to preserve or extend the serviceability of the asset, up to and including the current state of the art for maintaining such an asset. For purposes of FTA programs, preventive maintenance is considered a capital project. See 49 U.S.C. 5302.
- (64) Program of Projects (POP): A list of projects to be funded in certain applications submitted to FTA by a Designated Recipient, State, or local government. The POP lists the recipients and subrecipients and indicates whether they are private non-profit agencies, governmental authorities, or private providers of transportation service. The POP also designates the areas served (including rural areas, as applicable) and identifies any tribal entities. In addition, the POP includes a brief description of the projects, the total project cost, the Federal share for each project, and the amount of funds used for program administration from the allowed percentage.
- (65) Public Transportation: Regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income. Public transportation generally includes, but is not limited to, transportation services provided by buses, heavy rail, light rail, commuter rail, hybrid rail, bus rapid transit, passenger ferryboats, trolley buses, inclined railways, people movers, vanpools, streetcars, and aerial tramways. Public transportation can either be fixed-route or demand response service, but excludes intercity passenger rail provided by Amtrak, intercity bus service, charter bus service, school bus service, sightseeing services, courtesy shuttle services provided by individual business and intra-terminal or intra-facility shuttle services. See 49 U.S.C. 5302.
- (66) Rebuild: A capital activity associated with rolling stock that occurs at, or near, the end of a unit of rolling stock's useful life, and that results in an extended useful life for the unit of rolling stock consistent with the extent of the rebuilding. Compare with "Overhaul."



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- (67) Recipient: Generally, Recipient means an entity that is awarded funds directly from FTA to carry out an activity under a Federal program to support a specific project. Formerly, recipient was referred to as grantee. In this circular, FTA uses the term recipient interchangeably with Direct Recipient. Depending on context, the term recipient in this circular may include a subrecipient.
- (68) Rehabilitate: Pertaining to Capital Assets other than land and intellectual property, rehabilitation means the restoration or reconstruction of an asset's manufacture, assembly, or construction, other than market-standard maintenance, including a "rebuild" and "overhaul" as defined in this circular. While structural and visual restoration may be included within a rehabilitation activity, a rehabilitation must include restoration to systems that are integral to the functionality of the asset, such as mechanical systems and vehicle interiors.
- (69) Rural Area: Any area that has not been designated in the most recent decennial census as an urban area with at least 50,000 people by the Secretary of Commerce. 49 U.S.C. 5302.
- (70) Security Project: A project designed to increase security for transit system users, and that fulfills the requirements of 49 U.S.C. 5307(c)(1)(J). Includes projects for increased lighting, deployment of additional cameras, installation of emergency telephones, etc. May include payment of security personnel where eligible.
- (71) Senior: A senior is an individual who is 65 years of age or older. See 49 U.S.C. 5302.
- (72) Shared Use: Instances in which an entity, separate from the recipient, occupies part of a facility and pays for its pro rata share of the construction, maintenance, and operations costs. Shared uses should be declared at the time of grant award to ensure the proper allocation and eligibility of costs in the grant. Shared use and incidental use are distinguishable.
- (73) Sightseeing Service: Passenger transportation primarily for sightseeing pleasures (enjoyment of views, scenery, or ambience) from the vehicle being used. Service is generally characterized by round-trip transportation back to the point of origin. Service often includes on-board narration, prepared meals, or entertainment.
- (74) Small Transit Intensive City (STIC): A small urbanized area that provides public transportation service FTA has determined meets or exceeds the industry average for all Urbanized Areas (UZAs) with a population of between 200,000 and 1 million in one or more of the following performance criteria: Passenger Miles Traveled (PMT) per VRM; PMT per Vehicle Revenue Hour (VRH); VRM per capita; VRH per capita; PMT per capita; and passengers per capita. See 49 U.S.C. 5336(i)(1).
- (75) Small Urbanized Areas: As used in the context of FTA formula programs, small UZAs mean UZAs with a population of at least 50,000 but less than 200,000.

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- (76) Spare Parts: See “Associated Capital Maintenance.”
- (77) State: A State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands. 49 U.S.C. 5302.
- (78) State of Good Repair (SGR): The condition in which a capital asset is able to operate at a full level of performance. (49 CFR Part 625).
- (79) Statewide Transportation Improvement Program (STIP): A statewide prioritized listing/program of transportation projects covering a period of four years that is consistent with the long-range statewide transportation plan, metropolitan transportation plans (MTPs), and transportation improvement programs (TIPs), and is required for projects to be eligible for funding under Title 23 of the U.S. Code and 49 U.S.C. Chapter 53. See 23 CFR 450.104.
- (80) Subrecipient: An entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a recipient of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. See 2 CFR 200.1.
- (81) Supplies: All tangible personal property other than those described in the definition of Equipment in this circular and 2 CFR 200.1. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life. See also the definitions of computing devices and equipment in this circular and 2 CFR 200.1.
- (82) Territory: Depending on the program, the term territory may include the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the United States Virgin Islands.
- (83) Transit: Public transportation.
- (84) Transit Asset Management: The strategic and systematic practice of procuring, operating, inspecting, maintaining, rehabilitating, and replacing transit capital assets to manage their performance, risks, and costs over their life cycles, for the purpose of providing safe, cost-effective, and reliable public transportation. See 49 CFR Part 625.
- (85) Transit Asset Management (TAM) Plan: A plan developed by a transit agency that includes an inventory of capital assets, a condition assessment of inventoried assets, a decision support tool, and a prioritization of investments. See 49 CFR Part 625.
- (86) Transit Award Management System (TrAMS): FTA’s web-based electronic award and management system used to apply for, administer, and manage FTA awards. TrAMS is FTA’s current award-making system.

- (87) Transportation Improvement Program (TIP): A prioritized listing/program of transportation projects covering a period of four years that is developed and formally adopted by an MPO as part of the metropolitan transportation planning process, consistent with the MTP, and required for projects to be eligible for funding under Title 23, U.S.C. and 49 U.S.C. Chapter 53. See 23 CFR 450.104.
- (88) Transit Vehicle Manufacturer (TVM): Any manufacturer whose primary business purpose is to manufacture vehicles specifically built for public mass transportation. Such vehicles include, but are not limited to: buses, rail cars, trolleys, ferries, and vehicles manufactured specifically for paratransit purposes. Producers of vehicles that receive post-production alterations or retrofitting to be used for public transportation purposes (e.g., cutaway vehicles, vans customized for service to people with disabilities) are also considered TVM. See 49 CFR 26.5.
- (89) Triennial Review: The process by which FTA meets its statutory obligation to review and evaluate every three years the performance of a recipient of Urbanized Area Program funds and how the recipient meets statutory and administrative requirements, especially those requirements included in the annual Certifications and Assurances. See 49 U.S.C. 5307(f). In addition to evaluating compliance with Federal law, the review gives FTA an opportunity to provide technical assistance on the latest FTA requirements.
- (90) Unified Planning Work Program (UPWP): A statement of work identifying the planning priorities and activities to be carried out within a metropolitan planning area (MPA). At a minimum, a UPWP includes a description of the transportation planning work and resulting products, the organization that will be responsible for performing the work, time frames for completing the work, the cost of the work, and the source(s) of funds. See 23 CFR 450.104.
- (91) Uniform System of Accounts (USOA): A structure of categories and definitions used for NTD reporting to ensure uniform data. The USOA contains various categories of accounts and records for classifying financial (Chart of Accounts) and operating data. See 49 U.S.C. 5335.
- (92) Urbanized Area (UZA): An area that has been defined and designated in the most recent decennial census as an "urban area" by the Secretary of Commerce with at least 50,000 or more persons. See 49 U.S.C. 5302.
- (93) Useful Life Benchmark: The expected life cycle or the acceptable period of use in service for a capital asset, as determined by a transit provider, or the default benchmark provided by FTA, as reflected in an agency's TAM Plan.

b. Acronyms.

Acronym	Full Name or Term
ACS	American Community Survey

Acronym	Full Name or Term
ADA	Americans with Disabilities Act
ADEA	Age Discrimination Act
ASAP	All Stations Accessibility Program
ASP	Agency Safety Plan
ATI	Associated Transit Improvements
BRT	Bus Rapid Transit
CAA	Clean Air Act
CCAM	Coordinating Council on Access and Mobility
CDL	Commercial Driver's License
CE	Categorical Exclusion
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CMAQ	Congestion Mitigation and Air Quality
DBE	Disadvantaged Business Enterprises
DOT	Department of Transportation
ECHO	Electronic Clearing House Operation
ECN	ECHO Control Number
EEO	Equal Employment Opportunity
EIS	Environmental Impact Statement
EO	Executive Order
EPA	Environmental Protection Agency
ER Program	Emergency Relief Program
FAST Act	Fixing America's Surface Transportation Act
FFATA	Federal Funding Accountability and Transparency Act of 2006 or Transparency Act, Public Law 109-282, as amended by Section 202(a) of Public Law 110-25, 31 U.S.C. 6101
FHWA	Federal Highway Administration
FONSI	Finding of No Significant Impact
FR	Federal Register
FTA	Federal Transit Administration
FY	Fiscal Year
GPRA	Government Performance and Results Act
HOV	High Occupancy Vehicle
HIB	High Intensity Bus/Motorbus

<b>Acronym</b>	<b>Full Name or Term</b>
IJA	Infrastructure Investment and Jobs Act
ISTEA	Intermodal Surface Transportation and Efficiency Act of 1991
IT	Information Technology
ITS	Intelligent Transportation Systems
JARC	Job Access and Reverse Commute
LONP	Letter of No Prejudice
MAP-21	The Moving Ahead for Progress in the 21st Century Act
MPA	Metropolitan Planning Area
MPO	Metropolitan Planning Organization
MTP	Metropolitan Transportation Plan
NEPA	National Environmental Policy Act
NOFO	Notice of Funding Opportunity
NSP	National Public Transportation Safety Plan
NTD	National Transit Database
PMP	Project Management Plan
POP	Program of Projects
PTASP	Public Transportation Agency Safety Plan
PTSCTP	Public Transportation Safety Certification Training Program
ROD	Record of Decision
RTAP	Rural Transportation Assistance Program
SGR	State of Good Repair
SSO	State Safety Oversight
SSOA	State Safety Oversight Agency
STBG	Surface Transportation Block Grant Program
STIC	Small Transit Intensive Cities
STIP	Statewide Transportation Improvement Program
TAM	Transit Asset Management
TIFIA	Transportation Infrastructure Financing and Innovation Act
TIP	Transportation Improvement Program
TMA	Transportation Management Area
TNC	Transportation Network Company
TOD	Transit-Oriented Development
TrAMS	Transit Award Management System

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<b>Acronym</b>	<b>Full Name or Term</b>
TVM	Transit Vehicle Manufacturer
USDOT	U.S. Department of Transportation
U.S.C.	United States Code
UPWP	Unified Planning Work Program
USOA	Uniform System of Accounts
UZA	Urbanized Area
VIN	Vehicle Identification Number
VRH	Vehicle Revenue Hours
VRM	Vehicle Revenue Miles

**CHAPTER II:****PROGRAMS OVERVIEW****1. STATUTORY AUTHORITY.**

- a. Urbanized Area Formula Grants Program (Section 5307). Codified at 49 U.S.C. 5307, under this program, the Secretary may make grants to assist States and local governmental authorities in financing capital and planning projects, Job Access and Reverse Commute (JARC) projects, and certain operating costs, as described in Chapter IV of this circular.

The Assistance Listing number for Urbanized Area Formula Grants is 20.507.

- b. State of Good Repair Grants Program (Section 5337). Codified at 49 U.S.C. 5337, under this program, the Secretary may make grants to assist States and local governmental authorities in financing capital projects to maintain public transportation systems in a state of good repair, including projects to replace and rehabilitate: rolling stock; track; line equipment and structures; signals and communications; power equipment and substations; passenger stations and terminals; security equipment and systems; maintenance facilities and equipment; operational support equipment, including computer hardware and software; development and implementation of a transit asset management (TAM) plan; and other replacement and rehabilitation projects the Secretary determines appropriate.

The Assistance Listing number used in the State of Good Repair Grants Program is 20.525.

- c. Grants for Buses and Bus Facilities Program (Section 5339). Codified at 49 U.S.C. 5339, under this program, the Secretary may make grants to assist eligible recipients in financing capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities. This circular applies more specifically to the Urbanized Area formula component of the Grants for Buses and Bus Facilities Program codified at 49 U.S.C. 5339(a). For detailed information on the Grants for Buses and Bus Facilities Competitive or Low-No Competitive Programs, please reference the specific Notice of Funding Opportunity (NOFO) for that year.

The Assistance Listing number used in the Grants for Buses and Bus Facilities Grants Program is 20.526.

**2. PROGRAM GOALS.**

- a. Urbanized Area Formula Grants Program (Section 5307). Pursuant to 49 U.S.C. 5307, FTA apportions Section 5307 funds to UZAs and States for public transportation capital projects, operating assistance, JARC projects, and transportation-related planning. To

support the continuation and expansion of public transportation services in the United States, Section 5307 supports public transportation by:

- (1) Assisting in the planning, engineering, design, construction, evaluation, and maintenance of public transportation projects, equipment, and facilities;
  - (2) Facilitating cooperation between public transportation providers and private companies engaged in public transportation to encourage the planning and establishment of area-wide public transportation systems needed for economical and desirable urban development;
  - (3) Encouraging mobility management, employment-related transportation alternatives, joint development practices, and transit-oriented development;
  - (4) Providing financial assistance to States and local governments to help carry out national goals related to mobility for all, including seniors, individuals with disabilities, and economically disadvantaged individuals;
  - (5) Investing in bus and bus-related activities such as replacement, overhaul, and rebuilding of buses; and
  - (6) Investing in crime prevention, public transportation safety, and security equipment.
- b. State of Good Repair Grants Program (Section 5337). Pursuant to 49 U.S.C. 5337, the State of Good Repair Grants Program provides funding to UZAs for eligible recapitalization and rehabilitation activities with a goal of bringing fixed guideway systems and high intensity motorbus systems into a state of good repair.
- c. Formula Grants for Buses and Bus Facilities Program (Section 5339(a)). Pursuant to 49 U.S.C. 5339(a), FTA apportions funds to Designated Recipients in large UZAs and States for small UZAs and rural areas for the purpose of financing capital bus and bus-related projects that will support the continuation and expansion of public transportation services in the United States.
3. PROGRAM MEASURES. The GPRA Modernization Act of 2010, Pub. L. 111–352, requires FTA and other Federal agencies to “establish performance goals to define the level of performance to be achieved in the agency annual performance plan” and to “establish a balanced set of performance indicators to be used in measuring or assessing progress toward each performance goal” included in the agency performance plan. To fulfill FTA’s obligations under the GPRA Modernization Act, FTA has established performance goals relevant to transit grant programs under 49 U.S.C Sections 5307, 5337, and 5339. These performance goals pertain to improving transit infrastructure (State of Good Repair), and to increasing transit ridership and service. FTA has established performance measures to track progress toward these performance goals and report on results. The measures are targeted to capture overarching program information as part of the annual report that each recipient submits to FTA. FTA also captures information on recipients’ progress towards these performance measures through reporting to the National Transit Database (NTD) at a system level, rather than on a grant-by-grant basis.



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

- a. Recipient Measures and Reporting: Recipients develop performance measures for transportation projects through the planning process described in Chapter V.
4. CENSUS AND FTA DESIGNATIONS OF URBAN AND URBANIZED AREAS. FTA apportions Urbanized Area Formula Grants, State of Good Repair Grants, and Formula Grants for Buses and Bus Facilities for public transportation in Urban Areas with a population of 50,000 or more. Urban Areas are designated by the U.S. Bureau of the Census based on the results of each decennial census and represent concentrated geographic areas that meet certain population and housing density and impervious surface coverage thresholds with a population of at least 5,000 or that contain a minimum of 2,000 housing units. Under 49 U.S.C. Chapter 53, FTA defines urban areas with a population of 50,000 or more as UZAs.

UZAs generally correspond to U.S. cities and their densely populated suburbs. Most UZAs include multiple independent jurisdictions and some include multiple cities, if those cities are linked by a densely populated area. The criteria for qualification as an Urban Area are based on geographic and demographic factors determined by the U.S. Bureau of the Census. The population criterion for qualification as a UZA for FTA's purposes is set by Federal law. The specific factors used to determine which adjacent areas are included in an Urban Area and that would consequently fall into a UZA are subject to change with each decennial census.

Once the data are published, FTA uses these population counts and boundaries for funding apportionments and program eligibility determinations until the Census Bureau designates new urban areas as a result of the next decennial census. This information can be found on [FTA's census web page](#).

5. DESIGNATED RECIPIENT AND STATE ROLES IN PROGRAM ADMINISTRATION. FTA apportions Section 5307, 5337, and 5339(a) funds annually for UZAs to States and Designated Recipients, which are responsible for receiving and apportioning the funds to eligible projects and recipients within the applicable UZA(s). The State or Designated Recipient has the principal authority and responsibility for administering Section 5307, 5337, and 5339(a) funds within a UZA. A State is responsible for administering these programs on behalf of all UZAs under 200,000 in population, or portions thereof, that are located within its boundaries. A Designated Recipient is responsible for administering funds on behalf of a UZA with a population of 200,000 or more. For UZAs with a population of at least 200,000, a Designated Recipient must be selected in accordance with the local planning process, as detailed in the "Recipient Designation Process" section below.

While FTA apportions Section 5307 and 5339(a) funds annually for all UZAs nationwide, FTA apportions Section 5337 funds only to those Designated Recipients or States that have High Intensity Fixed Guideway and High Intensity Motorbus (HIB) systems that have been operating at least seven full Federal fiscal years, as reported to the NTD. Section 5337 also

provides that Southwestern Connecticut, Northeastern New Jersey, and Baltimore Commuter Rail shall receive direct apportionments of the Fixed Guideway portion of the State of Good Repair Grants Program, as directed by 49 U.S.C. 5337(c)(6)(B). The Designated Recipients and States receiving funds under Sections 5339(a) and 5337 are generally the same as those receiving funds under Section 5307, but Designated Recipients could be appointed separately for each program.

The respective States and Designated Recipients are additionally responsible for ensuring that the Program of Projects (POP) complies with the requirement that at least one percent of each UZA's Section 5307 apportionment is used for public transportation security projects, unless the recipient decides that the expenditure for security projects is not necessary (49 U.S.C. 5307(c)(1)(J)). Further, for UZAs with a population of 200,000 or more, Designated Recipients are responsible for ensuring that the annual POP complies with the requirement that at least 0.75 percent of each recipient's Section 5307 allocation is used for safety-related projects in accordance with 49 U.S.C. 5329(d)(4)(B).

6. RECIPIENT DESIGNATION PROCESS. As described above, for UZAs with a population of 200,000 or more, a requirement for funding under Sections 5307, 5337, and 5339(a) is the selection of a Designated Recipient for each formula program. The recipient(s) designated in each UZA must be a governmental authority and have the legal authority to receive and dispense Federal funds in the UZA.

FTA encourages the designation of a single Designated Recipient for each UZA with a population of 200,000 or more, including for UZAs that span more than one State. This will streamline the administration of the program and foster coordination. FTA also encourages the designation of a single Designated Recipient for funds made available under all three of the Section 5307, 5337, and 5339(a) formula programs. However, nothing precludes the designation of multiple Designated Recipients for a single UZA or for the separate formula programs.

The governor of a State or the governor's official designee may also designate a single Designated Recipient for multiple contiguous large UZAs. In cases where a UZA extends into more than one State, and the public transportation providers are also located in more than one State, the governor of each State must participate in the process to designate a recipient.

The governor or the governor's designee performs the role of the Designated Recipient for UZAs under 200,000 in population and for the State's portion of any multi-state UZAs under 200,000 in population. Although the governor or the governor's designee may authorize a local entity, such as a Metropolitan Planning Organization (MPO), to develop and recommend funding allocations, the governor or the governor's designee must approve the final allocation of program funds for these areas. Additionally, the governor or the governor's designee may authorize eligible public transportation operators to apply directly to FTA for grants as Direct Recipients.

Designations for UZAs of 200,000 or more in population become effective when the governor of a State officially notifies the appropriate FTA regional administrator(s), in

writing, of that designation. The designation remains in effect until the governor of the State changes the designation through an official written notice of re-designation to the appropriate FTA regional administrator. The written designation notice must include:

- a. A letter expressing the governor's concurrence; and
- b. Documentation of concurrence in the selection of the Designated Recipient by the providers of publicly owned public transportation service in the UZA and an appropriately certified resolution of the MPO concurring in the designation.

For each Designated Recipient, the State must submit an Opinion of Counsel certifying the entity's legal capacity to perform the functions of a Designated Recipient.

#### 7. DIRECT RECIPIENT AND SUBRECIPIENT ELIGIBILITY.

- a. Applicants Other than Designated Recipients. A State or Designated Recipient may authorize another public entity to be a Direct Recipient for Section 5307, 5337, or 5339(a) funds. A Direct Recipient is a public entity that is legally eligible under Federal transit law to apply for and receive grants directly from FTA. The State or Designated Recipient may make this authorization one time or at the time of each application submission, at the option of the State or Designated Recipient.

The Designated Recipient must inform FTA of the arrangement in a Split Letter, which establishes the allocation of Section 5307, 5337, and/or 5339(a) funds in a large UZA. States must inform FTA of such arrangements in an annual apportionment letter for funds attributable to small UZAs. Once an agency has been authorized to apply to FTA as a Direct Recipient, it is not necessary to repeat this authorization upon each future allocation of program funds.

A public agency other than the Designated Recipient may apply for some or all of a UZA's Section 5307, 5337, or 5339(a) apportionment if:

- (1) The State or Designated Recipient authorizes the public agency to do so;
- (2) The public agency submits an independent grant application; and
- (3) Upon award, the Designated Recipient and the public agency execute a supplemental agreement, which releases the Designated Recipient from any liability under the grant agreement between FTA and the Direct Recipient. The supplemental agreement permits the recipient (e.g., Direct Recipient) to receive and expend the Federal funds and sets forth that the recipient assumes all responsibilities of the grant agreement. This supplemental agreement is required for all recipients in UZAs under 200,000 in population, as well as for all recipients in UZAs with populations of at least 200,000 that are not a Designated Recipient.

The amount of funds available to Direct Recipients is determined cooperatively by public transit providers, the respective MPO, and the Designated Recipient(s) or State(s) for the UZA, in adherence with Federal planning requirements. The Designated Recipient or

State informs FTA of the amount of funds available. FTA can only make grants to Direct Recipients after the Designated Recipient or State provides a split/suballocation letter or annual apportionment letter, respectively, to the FTA regional office.

- b. Subrecipient Arrangements. A recipient of Section 5307, 5337, or 5339(a) funds, whether a Designated Recipient/State or Direct Recipient, may choose to pass its grant funds through to another entity (subrecipient) to carry out a project eligible under Section 5307, 5337, or 5339(a), respectively.

For example, subrecipient arrangement may be used to allocate funding to projects undertaken by a smaller cooperating agency on behalf of a Designated or Direct Recipient or State.

Unlike supplemental agreements between a Direct Recipient and FTA, a subrecipient arrangement does not relieve the original Designated or Direct Recipient or State of its responsibilities to carry out the terms and conditions of the grant agreement.

Eligible subrecipients may be:

- (1) A public entity otherwise eligible to become Direct Recipients under Sections 5307, 5337, or 5339(a), or
- (2) A private nonprofit operator of public transportation for Section 5339(a) funds or for the purposes of carrying out eligible JARC projects under Section 5307.

To establish a subrecipient arrangement, a Designated or Direct Recipient or State must:

- (1) Enter into a written agreement with the subrecipient that assures FTA that the subrecipient will comply with its obligation to satisfy the requirements of the grant agreement;
- (3) Inform the FTA Regional Office of the arrangement in its grant application or through other documentation; and
- (4) Inform FTA of any changes in that arrangement during the life of the project.

If a private nonprofit organization provides public transportation service within a UZA, an FTA Designated or Direct Recipient or State may choose to enter into a contracted service arrangement to fund the service using Section 5307 funds. This situation may occur after the Census Bureau revises Urban Area boundaries as a result of the most recent decennial census. For example, the revised boundaries may result in a formerly rural transit service being incorporated into a UZA. Such an arrangement would be subject to Federal procurement laws and regulations, including the requirement for a competitive procurement. Further information on competitive procurement requirements is available in FTA Circulars 5010.1F and 4220.1F.

- c. Private Operators of Public Transportation as Contractors. Private, for-profit operators of public transportation are not eligible subrecipients of Section 5307, 5337, or 5339(a)

funds. However, as noted above, eligible recipients may choose to enter into a contracted service arrangement with for-profit, private operators, including private taxi companies and Transportation Network Companies (TNCs) using these funds. Private taxi companies and TNCs that provide shared-ride on-demand service to the general public or to a segment of the general public defined by age, disability, or low income on a regular basis are eligible contracted operators of public transportation service using Section 5307 or 5339(a) funds. “Shared-ride” means two or more passengers in the same vehicle who are otherwise not traveling together. Similar to general public Demand Response and Americans with Disabilities Act (ADA) paratransit service, every trip does not have to be shared-ride in order for a taxi company or TNC to be considered a shared-ride operator, for example, if no other riders are available, but the general nature of the service must include shared rides.

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

A recipient that contracts with a private taxi operator or TNC to provide public transportation must ensure the service complies with Federal requirements for service the recipient would provide itself. This includes ensuring that service for persons with disabilities, particularly wheelchair users, is equivalent to that available to persons without disabilities. There may also be other requirements under the program access requirements applicable to public entities under regulations issued under Title II of the ADA by the U.S. Department of Justice.

Shared-ride service must also permit parents to ride with dependents under the same terms and conditions as the shared-ride service. For example, if a transit operator partners with a TNC to provide both a shared-ride service and an exclusive ride service, a parent traveling with dependents cannot be forced to use the exclusive ride service.

8. FTA OVERSIGHT. Congress has charged FTA with conducting reviews of Designated and Direct Recipients and States or requiring that they have independent audits conducted on their programs to determine whether they have met the program’s requirements and certifications.

Designated and Direct Recipients and States may be subject to a triennial, State management, or other regularly scheduled comprehensive review to evaluate their performance. FTA performs a triennial review at least once every three years to evaluate the performance of each recipient of Section 5307 or 5339(a) funds. These comprehensive reviews of recipient

performance allow FTA to determine if the recipient is complying with Federal statutory and administrative requirements and the certifications it has made.

FTA may also conduct compliance reviews or audits in the areas of technical capability and capacity, procurement, financial management, civil rights, drug and alcohol, safety, and security, in addition to the triennial and State management reviews. When FTA evaluations or independent audits identify compliance deficiencies, FTA provides technical assistance to the recipient to facilitate compliance with Federal requirements. FTA may reduce or withdraw financial assistance as a result of review findings or withhold further funds until the recipient comes into compliance.

Projects funded under 49 U.S.C. Chapter 53, including the programs covered by this circular, may also be subject to FTA's Project Management Oversight requirements, 49 U.S.C. 5327, applicable to major capital projects as defined in 49 CFR 633.5.

9. RELATIONSHIP TO OTHER PROGRAMS. Other Federal transportation programs may provide support for Section 5307, 5337, and 5339(a) projects, and Section 5307, 5337, and 5339(a) projects may in turn enhance the effectiveness of these programs. The following is a brief discussion of existing programs and those that are newly authorized under IIJA.
  - a. Passenger Ferry Grants Program (Section 5307(h)). Funding is awarded based on competitive selection criteria published in an annual NOFO in the Federal Register. Consult the applicable NOFO for more information.
  - b. Fixed Guideway Capital Investment Grants Program – New Starts, Small Starts, and Core Capacity Improvements (Section 5309). The Fixed Guideway Capital Investment Grants Program is a discretionary grant program that funds the construction of new Fixed Guideway systems or extensions to existing Fixed Guideway systems as well as projects that will expand the core capacity of existing Fixed Guideway corridors. States and local governmental authorities are eligible applicants for Section 5309 funds.

Eligible projects include rapid rail (Heavy Rail), Commuter Rail, Light Rail, Hybrid Rail, Trolley Bus (using overhead catenary), Cable Car, passenger ferries, and Bus Rapid Transit (BRT) system. The Small Starts program, which is applicable to projects for which the Federal assistance provided is less than \$150 million and the total estimated net capital cost is less than \$400 million, also includes corridor-based BRT systems. The majority of the BRT must operate in a separated right-of-way dedicated for public transportation use during peak hours. BRT features must emulate the services provided by rail fixed guideway including defined stations, traffic signal priority, and short headway bidirectional services for a substantial part of weekdays. The Core Capacity Improvement program provides funds for substantial, corridor-based investments in existing Fixed Guideway systems that are at or over capacity or will be in five years. Core Capacity Improvement projects must increase the capacity of the existing Fixed Guideway system in the corridor by at least 10 percent.

Projects become candidates for funding under this program by successfully completing steps in the process defined in Section 5309 and obtaining a satisfactory rating under the



statutorily defined criteria. For both New Starts and Core Capacity Improvement projects, the steps in the process include project development, engineering, and construction. For Small Starts projects, the steps include project development and construction. New Starts and Core Capacity Improvement projects receive construction funds from the program through a Full Funding Grant Agreement that defines the scope of the project and specifies the total multiyear Federal commitment to the project. Small Starts projects receive construction funds through a single year grant or a multiyear grant agreement (Small Starts Grant Agreement) that defines the scope of the project and specifies the Federal commitment to the project.

Section 5307 funds and, in some cases, Section 5339(a) funds may be used to complement funding awarded to a project under the Fixed Guideway Capital Investment Program as well as to support the continued capital investment needs of completed projects. Depending on the circumstances, recipients can potentially use funds available under the formula State of Good Repair Grants Program (Section 5337) to complement New Starts, Small Starts, and Core Capacity Improvement projects funded under the discretionary Fixed Guideway Capital Investment Program for State of Good Repair (SGR) improvement purposes related to the subject project. Logically, in some instances, the sponsor of a New Starts, Small Starts, or Core Capacity Improvement project will want to repair or replace existing facilities, equipment, rolling stock, or infrastructure that is interdependent of that project. However, by law, discretionary funds for a Core Capacity Improvement project cannot be used to “maintain a state of good repair of the existing Fixed Guideway system,” or “to improve general station facilities or parking, or acquisition of rolling stock alone.” See 49 U.S.C. 5309(a)(2) and (b)(2).

Additional information about the Fixed Guideway Capital Investment Grant Program is available on [FTA’s Capital Investment Program web page](#).

- c. Grants for Buses and Bus Facilities and Low or No Emission Grants Competitive Programs (Section 5339(b) and (c)). Under Section 5339(b), FTA makes funds available to assist in financing buses and bus facilities capital projects including replacing, rehabilitating, purchasing, or leasing buses or related equipment and rehabilitating, purchasing, constructing, or leasing bus-related facilities. Through this competitive program, FTA considers the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

Under Section 5339(c), FTA makes funds available to finance acquisition or lease of low or no emission vehicles; construct or lease facilities and related equipment for low or no emission vehicles; or construct, rehabilitate, or improve facilities to accommodate low or no emission vehicles to be used in public transportation service. Through this competitive program, FTA considers the degree to which eligible projects make greater reductions in energy consumption and harmful emissions, including direct carbon emissions, than compared to standard buses or other low or no emission buses.

For both Section 5339(b) and (c), FTA awards funding based on a competitive selection and criteria published in an annual NOFO in the Federal Register. Consult the applicable NOFO for more information.

- d. Public Transportation Emergency Relief Program (Section 5324). The Emergency Relief Program (ER program) allows FTA to make grants to public transportation agencies that have experienced serious damage to transit assets as a result of an emergency. Emergency is defined as a natural disaster that affects a wide area, such as a flood, hurricane, tidal wave, earthquake, severe storm, landslide, or a catastrophic failure from an external cause as a result of which the governor of a State has declared an emergency and the Secretary has concurred, or the President has declared a major disaster.

FTA may make grants under the ER program for capital projects to protect, repair, reconstruct, or replace a public transportation system's equipment and facilities if the Secretary determines that it is in danger of suffering serious damage or has suffered serious damage as a result of a declared emergency. In addition, FTA may reimburse operating expenses that are outside the scope of an affected recipient's normal operations, including but not limited to evacuations; rescue operations; bus, ferry, or rail service (to replace inoperable service or to detour around damaged areas); additional service to accommodate an influx of passengers or evacuees; evacuees to their homes after the disaster or emergency; and the net project costs related to reestablishing, expanding, or relocating public transportation service before, during, or after an emergency or major disaster.

Awards under this program, or those made under Sections 5307 or 5311 to address a declared emergency, are subject to the terms and conditions that FTA determines are necessary. FTA will not provide funding for any expenses that are reimbursed by the Federal Emergency Management Agency. This program is implemented by regulation under 49 CFR Part 602.

- e. All Stations Accessibility Program – Competitive (IIJA Division J). IIJA establishes a new All Stations Accessibility Program (ASAP) to provide Federal competitive grants to assist eligible entities in financing capital projects to upgrade the accessibility of legacy rail Fixed Guideway public transportation systems for people with disabilities, including those who use wheelchairs, by increasing the number of existing stations or facilities for passenger use that meet or exceed the new construction standards of Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.). Eligible activities include projects to repair, improve, modify, retrofit, or relocate infrastructure of legacy stations or facilities for passenger use to meet or exceed current ADA standards for buildings and facilities. Planning related to pursuing public transportation accessibility projects, assessments of accessibility, or assessments of planned modifications to legacy stations or facilities for passenger use are also eligible activities.

An eligible entity may not use funds awarded under this program to upgrade a station or facility for passenger use that is already accessible to and usable by people with disabilities, and eligible activities apply only to legacy stations or facilities that are currently inaccessible. Funding and specific program requirements for ASAP will be published in an annual NOFO in the Federal Register. Consult the applicable NOFO for more information.



- f. Competitive Grants for Rail Vehicle Replacement (Section 5337(f)). This is a competitive grants program to assist State and local governmental authorities in replacing rail rolling stock. FTA may make up to three new awards to eligible projects under this program each fiscal year. Under Section 5337(f), considerations for these awards include: the size of applicants' rail systems; the age and condition of the rail rolling stock that has exceeded or will exceed the useful service life of the rail rolling stock in the five-year period following the grant, and whether applicants have identified replacement of the rail vehicles as a priority in the investment prioritization portion of their transit asset management plans. Funding and specific program requirements for Rail Vehicle Replacement competitive grants will be published in an annual NOFO in the Federal Register. Consult the applicable NOFO for more information.
- g. Other Discretionary Programs. Other discretionary programs administered by FTA that may have a relationship to Section 5307, 5337, and 5339(a) projects include:
- (1) Electric Low-Emitting Ferry Pilot Program (IIJA Section 71102, IIJA Division J);
  - (2) Public Transportation Innovation Program (49 U.S.C. 5312);
  - (3) Pilot Program for Transit-Oriented Development (IIJA Section 30009); and
  - (4) Innovative Coordinated Access and Mobility Pilot Program (FAST Act Section 3006(b)).

Funding and specific program requirements for these programs will be published in annual NOFOs in the Federal Register. Consult the applicable NOFO for more information.

- h. Rural Area Formula Program (Section 5311). The Rural Area Formula Program is a formula grant program that provides capital, planning, and operating assistance to States to support public transportation in areas not designated as urbanized areas. FTA apportions these funds under this program to the governor or the governor's designee. Eligible applicants include States and Indian Tribes. Eligible subrecipients include private nonprofit organizations, operators of public transportation, and intercity bus service operators.

The Tribal Transit Program is funded from amounts made available to carry out the Section 5311 program. Tribal Transit Program funds are allocated by formula and on a discretionary or competitive basis. Formula factors include VRM and the number of low-income individuals residing on Tribal lands. Discretionary funds are allocated based on criteria established for the program. Eligible Direct Recipients are federally recognized Indian Tribes in rural areas. The funds are to be allocated for grants to Indian Tribes for any purpose eligible under Section 5311, which includes capital, operating, planning, JARC projects, and administrative assistance for rural public transportation services and rural intercity bus service.

The Appalachian Development Public Transportation Assistance Formula Program is also funded from amounts made available to carry out Section 5311. This program provides formula funds to support public transportation for States in the Appalachian region. Funds are allocated for any purpose eligible under Section 5311.

Funds from all of these programs may support transit services that connect rural areas to urbanized areas. Additional information on the Section 5311 Rural Area Formula Program is available in the most current version of FTA Circular 9040.1.

- i. Enhanced Mobility of Seniors and Individuals with Disabilities (Section 5310). The Enhanced Mobility of Seniors and Individuals with Disabilities Program funds transportation services planned, designed, and carried out to meet the special transportation needs of seniors and individuals with disabilities in all areas, including large UZAs (200,000 or more in population), small UZAs (50,000–199,999 in population), and rural areas (under 50,000 in population). Much like for the Section 5307, 5337, and 5339(a) formula programs, States receive funds apportioned for rural areas and small UZAs under Section 5310. For large UZAs, the governor of the State chooses a Designated Recipient. Subrecipients can include States or local government authorities, private nonprofit organizations, or operators of public transportation.

Eligible activities include:

- (1) Projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;
- (2) Public transportation projects that exceed the requirements of the ADA of 1990 (42 U.S.C. 12101 et seq.);
- (3) Public transportation projects that improve access to fixed-route service and decrease reliance by individuals with disabilities on complementary paratransit; and
- (4) Alternatives to public transportation that assist seniors and individuals with disabilities with transportation.

Additional information on the Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities is available in the most current version of FTA Circular 9070.1.

- j. Federal Highway Administration (FHWA) Flexible Programs. Certain FHWA transportation programs, such as the Surface Transportation Block Program (STBG) or Congestion Management and Air Quality Program (CMAQ), allow recipients to transfer funds to FTA for public transportation projects that are eligible under the FHWA program and under Section 5307. When such “flexible fund” transfers are made for eligible transit projects, FTA will administer these funds in a separate Section 5307 grant. Guidance on the eligibility of these funds for transfer and associated requirements is provided in Chapter V of this circular, “Availability of FHWA ‘Flexible Funds’ for Transit Projects.”

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Further, the Federal Lands Access Program administered by FHWA provides funding to States and local governments for projects to improve transportation facilities that provide access to, are adjacent to, or are located within Federal lands, and for which ownership or maintenance responsibility is vested in the State or local government. The program provides funding to supplement State and local resources for public roads, transit systems, and other transportation facilities, with an emphasis on high-use recreation sites and economic generators.

- k. 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 (EO) 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 Development, Interior, Veterans Affairs, the Commissioner of Social Security, the Attorney General, and the Chair of the National Council on Disabilities.

CCAM coordinates more than 130 Federal programs providing transportation funding for seniors, people with disabilities, and individuals with low incomes. CCAM works at the Federal level to improve Federal coordination of transportation resources and to address barriers that States and local communities face when coordinating transportation. Additional information on CCAM can be found on the [CCAM website](#).



**CHAPTER III:****GENERAL PROGRAM INFORMATION****1. APPORTIONMENT OF PROGRAM FUNDS.**

- a. Urbanized Area Formula Grant Program (Section 5307). Section 5338 of title 49 U.S.C. authorizes funding for the Urbanized Area Formula Grant Program from the mass transit account of the highway trust fund. Section 5336 of title 49 U.S.C. sets the formula for the distribution of Urbanized Area Formula Grant funds to Designated Recipients and States for each fiscal year using the latest available U.S. decennial census data and other information reported by the Bureau of the Census and to the NTD. FTA publishes Section 5307 apportionments in the Federal Register along with formula apportionments and allocations for other FTA programs.

The total funds made available for Section 5307 for a given fiscal year under Section 5338(a)(2)(c) are allocated, apportioned, or set aside as follows:

- (1) Of the total made available, \$30,000,000 is set aside for discretionary Passenger Ferry Grants in accordance with Section 5307(h);
- (2) Of the total made available, 3.07 percent is allocated to UZAs based on the number of eligible low-income individuals, in accordance with Section 5307(j);
- (3) Of the amounts not apportioned under (a) and (b) above, three percent is set aside for allocation to UZAs under 200,000 in population according to the Small Transit Intensive Cities (STIC) provision;
- (4) Of the total made available, 0.75 percent is set aside for allocation to states for the State Safety Oversight Program in accordance with Section 5329(e)(6); and
- (5) Of the total made available, 0.75 percent is set aside for oversight pursuant to Section 5338(c)(1)(B).
- (6) Of the amounts not allocated or set aside under (1) through (5) above, the remainder of Section 5307 appropriations are apportioned among two basic categories as follows:
  - (a) 90.68 percent to UZAs of at least 200,000 in population, and
  - (b) 9.32 percent to UZAs less than 200,000 in population.

In addition to the funds apportioned above, FTA also apportions funds to States and UZAs based on the Section 5340 Growing States and High-Density States formula. FTA publishes a single combined apportionment for Sections 5307 and 5340. In effect, Section 5340 funds made available to States and Designated Recipients function as an

extension of Section 5307 funds in that they may be expended on the same activities that are eligible under Section 5307 for each recipient.

For UZAs with populations of less than 200,000, the formula is based on total population and population density according to the most recent decennial census, plus the STIC Formula. For UZAs with populations of 200,000 or more, the formula is based on a combination of bus revenue vehicle miles, bus passenger miles, Fixed Guideway revenue vehicle miles, Fixed Guideway directional route miles, Fixed Guideway passenger miles, operating expenses, as well as population and population density. UZAs with a population of at least 750,000 that are served by commuter rail each receive a minimum of 0.75 percent of the total Section 5307 funds apportioned to UZAs based on Fixed Guideway revenue miles and Fixed Guideway directional route miles. This part of the apportionment is known as the ‘commuter rail floor.’

UZAs under 200,000 in population may also receive funding under the STIC provision, which allocates funds based on a set of performance factors. To qualify for STIC funding, a UZA must have transit service that exceeds the industry average for all UZAs with a population of between 200,000 and 1 million in one or more of six defined performance categories .

FTA also apportions funds to States and UZAs on the basis of low-income population. FTA apportions these funds based on the proportion that a UZA’s low-income population bears to the total low-income population for all large or small UZAs. The Census Bureau annually publishes low-income population totals based on the most recent American Community Survey (ACS) counts. The ACS is the Census Bureau’s ongoing sample-based study of the population, which supplements the decennial census.

- b. State of Good Repair Grants Program (Section 5337). FTA apportions State of Good Repair Grants Program funds to States and Designated Recipients for UZAs with Fixed Guideway and high intensity motorbus systems that have been in operation for at least seven full Federal fiscal years prior to the beginning of the Federal fiscal year of the apportionment. For example, to receive apportioned funding in Fiscal Year (FY) 2024, a recipient must have initiated operations before FY 2017 (by September 30, 2016). Funds are apportioned by a statutory formula using data reported to the NTD.

- (1) State of Good Repair Grants Program funds are apportioned as follows:

- (a) 97.15 percent of the total State of Good Repair Grants Program appropriation is allocated to UZAs for Fixed Guideway systems that have been in operation for at least seven full Federal fiscal years. The apportionments to UZAs with High Intensity Fixed Guideway systems are determined by two equal elements:

- 1 Half of the Fixed Guideway apportionment is distributed according to the proportion a recipient would have received of the FY 2011 apportionment for 49 U.S.C. 5337, as it then existed, if calculated using the current

version of 49 U.S.C. 5336(b)(1) and the current definition of “Fixed Guideway” at 49 U.S.C. 5337(a); and

- 2 Half of the Fixed Guideway apportionment is distributed according to the recipient’s proportion of the vehicle revenue and directional route miles in all UZAs. Vehicle Revenue Miles (VRM) are weighted for 60 percent of this element, and directional route miles are weighted for 40 percent of this element, counting only those Fixed Guideway segments that have been in revenue service for at least seven full Federal fiscal years (49 U.S.C. 5337(c)).

The Fixed Guideway amount apportioned to an area in any fiscal year shall not decrease by more than 0.25 percent in comparison to the previous fiscal year.

- (b) 2.85 percent of the total State of Good Repair Grants Program appropriation is allocated to UZAs with high-intensity motorbus systems that have been in operation for at least seven full Federal fiscal years. The apportionments to UZAs with high-intensity motorbus systems are 60 percent based on VRM and 40 percent based on directional route miles, counting only those segments of high-intensity motorbus systems that have been in revenue service for at least seven full Federal fiscal years (49 U.S.C. 5337 (d)(4)).
  - (c) VRM and directional route miles that are attributable to a UZA must have been placed in revenue service at least seven full Federal fiscal years before the first day of the Federal fiscal year of the apportionment. A threshold level of more than one mile of Fixed Guideway is required in order to receive State of Good Repair funds. Therefore, UZAs reporting one mile or less of Fixed Guideway mileage to the NTD are not included.
- c. Formula Grants for Buses and Bus Facilities Program (Section 5339(a)). FTA apportions Section 5339(a) funds to States and Designated Recipients according to a statutory formula. In addition, States and territories (including the District of Columbia and Puerto Rico) receive a fixed allocation, referred to as the National Distribution, before FTA applies the formula. The funds made available under Section 5339(a) for a given fiscal year are apportioned as follows:
- (1) Of the total made available, \$206,000,000 each fiscal year shall be allocated to all States and territories, with each State receiving \$4,000,000 for each such fiscal year and each territory receiving \$1,000,000 for each such fiscal year.
  - (2) Of the remaining funds made available, 86.65 percent is allocated to Designated Recipients for use in UZAs of at least 200,000 in population and further subdivided into the categories as follows:
    - (a) 9.2 percent of the funds under (b) are for the incentive tier and are allocated on the basis of bus PMT squared, divided by operating costs.

- (b) 90.8 percent of the funds under (b) are for the non-incentive tier, with 73.39 percent apportioned to UZAs of one million or more in population and 26.61 percent apportioned to UZAs under one million in population.
- (3) Of the remaining funds made available, FTA allocates 13.35 percent to States for use in UZAs of less than 200,00 in population and further subdivided into the categories as follows:
  - (a) 50 percent of the funds under (c) are allocated to UZAs on the basis of the population of the UZAs; and
  - (b) 50 percent of the funds under (c) are allocated to UZAs on the basis of population multiplied by the population densities of the UZAs.
- d. Formula Data for Section 5307 and Section 5339(a). For Section 5307 and 5339(a), FTA obtains population and population density data from the most recently available decennial census at the time of apportionment. For all three formula grant programs, FTA obtains all service and transit infrastructure-related data used for formula apportionments from the latest report year of validated data reported in the NTD.

For purposes of the formula, FTA may not use data that is submitted late or data that FTA cannot validate. Transit providers submitting data should refer to the current editions of the NTD reporting manuals and Uniform System of Accounts when reporting to the NTD. Copies of these publications and other NTD policy statements and reporting guidance can be found on FTA's [NTD website](#). FTA's Office of Budget and Policy provides annual workshops on the NTD for persons reporting to the database on behalf of recipients.

FTA publishes Section 5307, 5337, and 5339(a) apportionment tables on FTA's website along with formula apportionments and allocations for other FTA programs.

## 2. AVAILABILITY OF FUNDS.

- a. Urbanized Area Formula Grant Program (Section 5307). Section 5307 funds are available for obligation during the Federal fiscal year for which they were apportioned, plus five additional years. For example, funds apportioned in FY 2022 are available until September 30, 2027.
- b. State of Good Repair Grants Program (Section 5337). State of Good Repair Grants Program formula funds are available for obligation during the Federal fiscal year for which they were apportioned, plus three additional years. For example, funds apportioned in FY 2022 are available until September 30, 2025.
- c. Formula Grants for Buses and Bus Facilities Program (Section 5339(a)). Section 5339(a) funds are available for obligation during the Federal fiscal year for which they were apportioned, plus three additional years. For example, funds appropriated in FY 2022 are available until September 30, 2025.



For all three programs, any funds that remain unobligated at the end of the period of availability are added to the next year's program apportionment and are reapportioned using the statutory formulas tied to each program along with funds made available for the next fiscal year.

### 3. REALLOCATION OR TRANSFER OF APPORTIONMENTS.

#### a. Urbanized Area Formula Grant Program (Section 5307) and Buses and Bus Facilities Formula Program (Section 5339(a)).

- (1) From the State's Apportionment: The governor of a State may allocate Section 5307 and 5339(a) apportionments made to Urbanized Areas under 200,000 in population to and among other UZAs within the State with populations of under 200,000. Consistent with 49 U.S.C. 5336(f)(1), the governor may transfer any part of the State's Section 5307 apportionments for small UZAs with less than 200,000 in population to rural areas, including Indian Tribes in rural areas, to supplement funds apportioned to the State under the Rural Area Formula Program, 49 U.S.C. 5311(c)(4). Consistent with 49 U.S.C. 5336(f)(1), the governor may make such transfers only after consulting with responsible local officials and publicly owned providers of public transportation service in each area to which FTA originally apportioned the funding.

Furthermore, consistent with 49 U.S.C. 5339(a)(6)(A), the governor may transfer Section 5339(a) National Distribution funds to UZAs with 50,000 in population or more. There is no statutory provision allowing the transfer of Section 5339 funds apportioned to the State for small UZAs to be transferred to rural areas.

- (2) Lapsing funds: The governor may use any Section 5307 program funds from the State's apportionment that remain available for obligation throughout the State beginning 90 days before the expiration of their period of availability. The governor may use these funds without prior consultation and in any area within the State (including rural, small UZAs, and large UZAs) for purposes eligible under the Urbanized Area Program.
- (3) From the Formula Grants for Rural Areas Program to Supplement the Urbanized Area Program. The governor may transfer funds from the State's apportionment under the Formula Grants for Rural Areas Program (Section 5311) to supplement funds apportioned to the State under the Urbanized Area Program for small UZAs under 200,000 in population. A recipient may use these transferred amounts for any capital and operating assistance eligible under the Rural Area Program.
- (4) From Larger Urbanized Areas to the Governor of the State. A Designated Recipient in a large UZA with a population of 200,000 or more may transfer its Urbanized Area Formula Grant Program apportionment, or a portion thereof, to the governor. The governor will allocate the apportionment to large or small UZAs in the State for purposes eligible under the Urbanized Area Formula Grant Program. Note that there is no statutory provision allowing a recipient to transfer funds

apportioned to a large UZA directly to another UZA without going through the governor's apportionment. To transfer funds from a large UZA with a population of 200,000 or more to the governor, the following process is applicable:

- (a) The Designated Recipient, after consulting with all potential recipients in the UZA, writes to the FTA Regional Office of the Designated Recipient's intent to transfer its apportionment, or a portion thereof, to the governor. This letter must identify the amount of the apportionment the Designated Recipient will transfer and the fiscal year that FTA apportioned the funds. The letter must also confirm that the Designated Recipient has consulted with all potential recipients of the originally apportioned funds. All of the Designated Recipients in a UZA must sign this letter;
- (b) The governor and the Designated Recipient, either separately or together, notify the FTA Regional Office, in writing, of the governor's willingness to accept the apportionment and confirm that the governor will only use the apportionment according to Urbanized Area Formula Grant Program requirements; and
- (c) After FTA receives these letters and verification that the apportionment is available for transfer (i.e., the funds have been apportioned, have not been otherwise committed, etc.), FTA, in writing, notifies both the Designated Recipient and the governor that the apportionment is available to the governor for allocation in compliance with the Urbanized Area Formula Grant Program upon FTA's receipt of an appropriate application.

There is no statutory provision allowing for the transfer of Section 5339 funds apportioned to a large UZA to be transferred to a small UZA or to a rural area.

- (5) Limitations: Transfers of apportionments are subject to the capital and operating assistance limitations applicable to the original apportionment of such amounts. For example, apportioned Section 5307 funds transferred from a large UZA with a population of 200,000 or more to a small UZA with a population of less than 200,000 retain a limitation on the percentage of funds that may be expended on operating activities based on the number of vehicles the recipients ultimately benefitting from those funds operate in peak service, as addressed in Chapter IV. Requirements that are specific to individual recipients' use of funds within a UZA in a certain population tier and that are not specific to the apportionments themselves, such as the requirement for each recipient in a large UZA to expend 0.75 percent of its apportioned Section 5307 funds on safety-related projects, as detailed in Chapter V, are not applicable when apportioned funds are transferred from a large UZA to a small UZA.
- b. State of Good Repair Grants Program (Section 5337). There is no statutory provision allowing the reallocation or transfer of Section 5337 funds between or among UZAs or to rural areas.

- c. Notification to FTA. For all transfers of Section 5307 and 5339(a) apportionments, Federal requirements do not mandate FTA approval prior to transfer of an apportionment. However, the governor of a State must notify FTA of a transfer for each transaction so that FTA can accurately reflect this transfer decision in overall program budget levels and apportionment records. In addition, the application project budget must show the amount of transferred funds.
- d. Consolidation of Awards 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 Transportation Assistance Program (RTAP) allocations annually, as well as Section 5310 funds, Section 5339 Bus and Bus Facility funds, and, in some cases, Section 5307 funds. (**Note:** Section 5307(g) states that the Virgin Islands shall be treated as a small UZA for the purposes of Section 5307. FTA does not apportion Section 5311 or RTAP funds to the Virgin Islands.) Specifically, 48 U.S.C. 1469a permits:
- (1) Federal agencies to consolidate any or all grants to each of the insular areas and to waive requirements for matching funds, applications, and reports with respect to the consolidated grants; and
  - (2) Each insular area to use the consolidated grant funds for any purpose or program authorized for any of the consolidated grants.

For these areas, FTA will consolidate Section(s) 5307, 5310, 5311, and 5339 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 Sections 5307, 5310, and 5339 to Section 5311 for use under any of these sections. This should improve the efficiency of grant making and grant management for these areas 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 information on application procedures and consolidation requirements. Among other things, the insular area should identify the intended use of consolidated funds and should document that the transportation of seniors and individuals with disabilities will not be adversely affected. Recipients may not consolidate FTA's emergency relief funds, authorized at 49 U.S.C. 5324, with other FTA grants. Recipients must expend emergency relief funds on approved response, recovery, and resilience projects.

In addition, under the authority of 48 U.S.C. 1469a(d), FTA has waived any local matching share requirements for grants to insular areas.

#### 4. FEDERAL SHARE OF PROJECT COSTS.

- a. Planning and Capital Projects. Except as provided for in b. below, the Federal share for eligible planning and capital projects that receive funding under Sections 5307, 5337, and

5339(a) may not exceed 80 percent of the net project cost. Net project cost is that portion of the cost of a project that cannot reasonably be financed from the recipient's revenues.

- b. Exceptions. The Federal share may exceed 80 percent for certain projects related to ADA and CAA projects as follows:
- (1) Vehicles. The Federal share is 85 percent for the acquisition of vehicles for purposes of complying with or maintaining compliance with the ADA of 1990 (ADA; 42 U.S.C. 12101 et seq.) or the Clean Air Act (CAA; 42 U.S.C. 7401 et seq.). A revenue vehicle that complies with 49 CFR Part 38 may be funded at 85 percent Federal share.
  - (2) Vehicle-Related Equipment and Facilities. The Federal share for project costs for acquiring vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying or maintaining compliance with the CAA, or required by the ADA, is 90 percent.

FTA considers vehicle-related equipment to be equipment used in the operation or maintenance of revenue service transit vehicles, either onboard or offboard.

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

- c. Operating Assistance. For eligible operating expenses under Section 5307, the Federal share may not exceed 50 percent of the net operating cost, which is determined after deducting fares and other system-generated revenues and ineligible costs as described in Chapter IV, Section 4, of this circular.
5. LOCAL SHARE OF PROJECT COSTS. For Section 5307, 5337, and 5339(a) funds, after the appropriate Federal share is established, the applicant must provide the local share of the net project cost in cash or through in-kind contributions. Local share requirements are outlined in FTA Circular 5010.1F and 2 CFR Part 200. Under the authority of 48 U.S.C. 1469a(d), FTA has waived any local matching share requirements for grants to insular areas (Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands).
  6. ADDITIONAL SOURCES OF LOCAL SHARE. In addition, other eligible sources of local match may include revenue bond proceeds, Transportation Development Credits (formerly referred to as toll revenue credits), program income, certain Social Security Act funds, Federal Lands Transportation Program funds, certain other Federal funds, and in-kind real estate contributions. For more information, please see FTA Circular 5010.1F.
  7. DEFERRED LOCAL SHARE. A recipient may request on a case-by-case basis that all or a portion of the local share for a project be deferred until up to 100 percent of the Federal funds have been drawn down or another period. The recipient must include the request for deferral with the grant application. A recipient that intends to use deferred local share must receive FTA approval prior to the obligation of the grant. FTA will specify the terms and schedule for the deferral.

Approval is contingent upon the deferral resulting in benefits to transit and upon the recipient's demonstration that it has the financial capacity to complete the project. Local share cannot be deferred indefinitely. When FTA approves the use of deferred local share, the local funds must be available and used to match drawn-down Federal funds in the time period specified by FTA's approval. Generally, FTA will not approve retroactive deferral of local share.

8. ALTERNATIVE FINANCING. Recipients, especially those wishing to undertake major capital projects, are encouraged to explore alternative methods of financing transit projects, in addition to grant funding. Alternative financing can involve combining multiple, nontraditional sources of funding as well as Federal, State, local, and private funding, in support of transit capital needs. Recipients might investigate the following approaches:
  - a. Capital leasing arrangements;
  - b. Joint development;
  - c. State economic development or revolving loan funds;
  - d. State infrastructure bank loans;
  - e. State and Federal tax credit programs;
  - f. Special tax districts, such as transportation development districts, special benefit districts, and tax increment financing;
  - g. Exchanges of real property; and
  - h. In-kind contributions.

Recipients with a dedicated funding source (e.g., sales tax proceeds, transportation development district proceeds, tax increment financing proceeds, and other revenue sources including user fees) may wish to consider a direct loan or loan guarantee, as provided under the Transportation Infrastructure Financing and Innovation Act (TIFIA). More information on the TIFIA program is available on the [USDOT Build America Bureau website](#).



## CHAPTER IV:

**ELIGIBLE PROJECTS AND REQUIREMENTS**

1. **ELIGIBILITY OF PROGRAM FUNDS.** This chapter addresses eligible projects and activities for each of the Section 5307, 5337, and 5339(a) formula programs. Among the three programs, Section 5307 is authorized to support the broadest range of eligible projects and activities, while Sections 5337 and 5339(a) are each authorized to support a narrower subset of what is generally eligible under Section 5307. This chapter addresses categories of projects and activities that are eligible under all three programs first, followed by what is applicable to two or fewer programs in accordance with Table IV-1: Summary of Eligible Activities by Formula Grant Program below.

**TABLE IV-1: SUMMARY OF ELIGIBLE ACTIVITIES BY FORMULA GRANT PROGRAM**

<b><u>Activity/Project Category</u></b>	<b><u>Eligible Under</u></b>
<a href="#"><u>Capital Projects</u></a>	Sections 5307, 5337, 5339(a)
<a href="#"><u>Workforce Development</u></a>	
<a href="#"><u>Interest and Debt Financing</u></a>	
<a href="#"><u>Planning Projects</u></a>	Section 5307
<a href="#"><u>Operating Assistance</u></a>	
<a href="#"><u>Job Access and Reverse Commute Projects</u></a>	

2. **INTERMODAL ELIGIBILITY OF APPORTIONED SECTION 5307, 5340, AND 5337 FUNDS.**
- a. **Section 5307 and 5340.** As mentioned in Chapter III, a significant share of the amounts apportioned to UZAs under Section 5307 is based on service metrics for a variety of public transportation modes, including Bus, Fixed Guideway, and Commuter Rail transportation. While a certain share of a UZA's Section 5307 apportionment may be based on service metrics for various modes, the share of a UZA's apportionment that is based on Fixed Guideway, Commuter Rail, or Bus transportation metrics may be expended on eligible activities for any of the other modes. Further, recipients may expend Section 5340 funds on the same activities that are eligible under Section 5307 for each recipient.
- b. **Section 5337.** In some UZAs, as mentioned in Chapter III, a share of the total amounts apportioned to UZAs under Section 5337 may be based on the presence of high-intensity Fixed Guideway within the UZA, while a separate share may be based on the presence of High-Intensity Motorbus (HIB). Funds apportioned for high-intensity Fixed Guideway shall be available exclusively for fixed guideway projects. HIB funds may be used



interchangeably on any eligible HIB or high-intensity Fixed Guideway project. Further, while funds for high intensity Fixed Guideway are apportioned based on segments that have been in revenue service for seven full Federal fiscal years or longer, a recipient may use the apportioned funds for eligible projects on any part of its fixed guideway system. Recipients can also use HIB funds for eligible projects on any part of their HIB system.

3. ACTIVITIES APPLICABLE TO SECTION 5307, 5337, AND 5339(a).

- a. Capital Projects. Capital projects eligible under Section 5307 include all projects listed under 49 U.S.C. 5302(4). In general, under Section 5307, eligible capital project expenses involve purchasing, leasing, constructing, maintaining, or repairing facilities, rolling stock, and equipment for use in a public transportation system. Under Section 5307, capital project expenses may include all direct costs and indirect costs associated with a project (provided that the recipient has an approved indirect cost allocation plan or indirect cost proposal).

General administrative expenses that a designated recipient or state incurs to implement the program (as contrasted with the eligible costs directly related to administering a capital project) are not eligible as a direct cost under the section 5307 program.

Section 5337 and 5339(a) each authorize a more targeted subset of capital projects. Section 5337 funds are available for capital projects that maintain a Fixed Guideway or an HIB system in a state of good repair, while Section 5339(a) funds are available to replace, rehabilitate, and purchase buses and related equipment and construct bus-related facilities.

Table IV-2: Urban Formula Programs Capital Eligibility Table, provided below, indicates the breadth of capital projects that are eligible under each of the Section 5307, 5337, and 5339(a) programs in cases where there is overlap in project eligibility.

Table IV-3: Additional Eligible Capital Activities Under Section 5307, which immediately follows Table IV-2, identifies additional activities that are independently eligible under Section 5307 that are not eligible under Section 5337 or 5339(a). Both Table IV-2 and Table IV-3 also provide references to special provisions that may be applicable to the listed projects. These special provisions are covered in later sections of Chapter IV or in Chapter V. The lists of projects provided in Table IV-2 and Table IV-3 are intended to be illustrative and not exhaustive. Please contact the appropriate FTA Regional Office regarding the eligibility of other projects.

**TABLE IV-2  
URBAN FORMULA PROGRAMS CAPITAL ELIGIBILITY TABLE**

Capital Activities Category and Program Eligibility		Illustrative Examples of Eligible Expenses	Additional Applicable Provisions
Buses and Bus-Related Expenses	Sections 5307 and 5339(a)	<ul style="list-style-type: none"> <li>Expansion of bus and van fleets and replacement of vans and buses (includes extended warranties; includes vehicles powered by clean fuels)</li> <li>Overhauling and rebuilding vans and buses, including modifying low- or no- emission vehicles</li> <li>Purchase and installation of accessory and miscellaneous equipment such as level-change mechanisms, securement devices, mobile radio units, bus stop signs, supervisory vehicles, operator shuttles, fareboxes, transit operator protection barriers, computers, software, cameras, bus diagnostic equipment, shop and garage equipment, cameras, etc.</li> <li>Construction, rehabilitation, renovation, or expansion of bus stop passenger amenities, park-and-ride facilities, transfer stations, intermodal terminals, charging facilities, and maintenance facilities (includes environmental compliance activities, land acquisition, design, engineering, demolition, relocation, and other activities that are incidental to project delivery)</li> <li>Technological changes or innovations to modify low- or no-emission vehicles, as defined in Section 5339(c), or related facilities</li> <li>Purchase and installation of new technology that provides benefits to transit</li> <li>Acquisition and reconstruction of associated capital maintenance items, including equipment and buses</li> <li>Project administration expenses directly associated with the accomplishment or oversight of an eligible project (does not include program-level administrative expenses for Designated Recipients or States to administer required programs of projects)</li> </ul>	<p>Leasing (Page XXX)</p> <p>Requirements Related to Vehicles and Equipment (Page XXX)</p> <p>Requirements Related to Facilities (Page XXX)</p> <p>Capital Cost of Contracting (Page XXX)</p> <p>Joint Development Projects (Page XXX)</p>
	Section 5307	<ul style="list-style-type: none"> <li>Fixed Guideway system extensions, expansion, or new system construction (includes land acquisition, environmental compliance, design, engineering, demolition, relocation, and other activities that are incidental to project delivery)</li> <li>Capital portions of rail trackage rights agreements</li> <li>Rolling stock (e.g., rail cars, locomotives, work trains, BRT vehicles, aerial tramway vehicles, and ferryboats), track, line equipment, guideway structures, signals, communications equipment, passenger stations, security equipment and systems, maintenance facilities and equipment, and operational support equipment, including computer hardware and software (includes extended warranties and rolling stock powered by clean fuels)</li> <li>Acquisition and reconstruction of equipment</li> <li>Project administration expenses directly allocable to the accomplishment or oversight of an eligible project (does not include program-level administrative expenses for Designated Recipients or States to administer required programs of projects)</li> </ul>	<p>Design and Installation of Public Art (Page XXX)</p> <p>Innovative Procurement (Page XXX)</p> <p>Facility and Vehicle Projects to Comply with ADA (Page XXX)</p> <p>Projects to Comply with the CAA (Page XXX)</p> <p>Transit-Oriented Development (Page XXX)</p> <p>Transit Asset Management (Page XXX)</p>
Fixed Guideway and High-Intensity Motorbus Expenses	Sections 5307, 5337, 5339(a)	<ul style="list-style-type: none"> <li>Replacement, rehabilitation, rebuilds, and overhauls of Fixed Guideway system components listed in the third bullet under Section 5307-eligible expenses above (includes extended warranties for replacement of rolling stock and activities that are incidental to project delivery)</li> <li>New maintenance facilities or maintenance equipment if needed to maintain the existing Fixed Guideway system or equipment</li> <li>Development and implementation of Transit Asset Management plans</li> <li>Project administration expenses directly allocable to and associated with the accomplishment or oversight of an eligible project (does not include program-level administrative expenses for Designated Recipients or states to administer required programs of projects)</li> <li>Section 5337 is not for expansion projects (Exceptions: Maintenance projects needed to maintain line extensions)</li> </ul>	

Capital Activities Category and Program Eligibility	Illustrative Examples of Eligible Expenses	Additional Applicable Provisions
<b>Preventive Maintenance</b> Sections 5307 and 5337	<ul style="list-style-type: none"> <li>All maintenance costs related to vehicles, equipment, and facilities</li> </ul>	Capital Cost of Contracting (Page XXX)

**TABLE IV-3  
ADDITIONAL ELIGIBLE CAPITAL ACTIVITIES UNDER SECTION 5307**

Capital Activities Category (Section 5307)	Illustrative Examples of Eligible Expenses	Applicable Additional Provisions
Associated Transit Improvements	<ul style="list-style-type: none"> <li>• Historic preservation, rehabilitation, and operation of historic public transportation buildings, structures, and facilities (including historic bus and railroad facilities) intended for use in public transportation service</li> <li>• Bus stop infrastructure, functional landscaping and streetscaping, including shelters, benches, trash receptacles, and lighting</li> <li>• Pedestrian access and walkways</li> <li>• Bicycle access, including bicycle storage shelters and parking facilities and the installation of equipment for transporting bicycles on public transportation vehicles</li> <li>• Signage/wayfinding</li> <li>• Enhanced access to public transportation for individuals with disabilities that exceed the minimum requirements of ADA</li> <li>• Project administration expenses directly allocable to and associated with the accomplishment or oversight of an eligible project (does not include program-level administrative expenses for Designated Recipients or States to administer required programs of projects)</li> </ul>	<p>Design and Installation of Public Art (Page XXX)</p> <p>Transit-Oriented Development (Page XXX)</p> <p>Bicycle and Pedestrian Paths (Page XXX)</p> <p>Required Reporting (Page XXX)</p>
Mobility Management	<ul style="list-style-type: none"> <li>• 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</li> <li>• Support for short-term management activities to plan and implement coordinated services</li> <li>• Support of State and local coordination policy bodies and councils</li> <li>• Operation of transportation brokerages to coordinate providers, funding agencies, and customers</li> <li>• Provision of coordination services, including employer-oriented transportation management organizations, transportation management associations, business improvement districts or other like 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</li> <li>• 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</li> <li>• Operational planning to acquire intelligent transportation technologies to help plan and operate coordinated systems inclusive of Geographic Information Systems 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</li> </ul>	<p>N/A</p>

Capital Activities Category (Section 5307)	Illustrative Examples of Eligible Expenses	Applicable Additional Provisions
ADA Complementary Paratransit Service	<ul style="list-style-type: none"> <li>• A recipient operating a fixed-route system may use up to 10 percent of its annual formula apportionment at the capital project 80/20 Federal/local share ratio to pay for complementary paratransit services provided in accordance with 49 CFR Part 37, Subpart F if the applicable recipient is in compliance with USDOT regulations at 49 CFR Parts 27, 37, and 38 in its implementation of the transportation provisions of the ADA.</li> <li>• A recipient may use up to 20 percent of its annual apportionment at the capital project 80/20 Federal/local share ratio to pay for complementary paratransit services if it meets the requirements above and demonstrates it meets at least two of the following requirements:               <ul style="list-style-type: none"> <li>(I) Provides an active fixed route travel training program that is available for riders with disabilities.</li> <li>(II) Provides that all fixed route and paratransit operators participate in a passenger safety, disability awareness, and sensitivity training class on at least a biennial basis.</li> <li>(III) Has memoranda of understanding in place with employers and the American Job Center to increase access to employment opportunities for people with disabilities.</li> </ul> </li> </ul> <p><b>Note:</b> When a UZA has more than one recipient, it is the Designated Recipient’s responsibility to work with public transportation operators in the UZA to allocate the 10 or 20 percent (depending on eligibility) of the UZA’s apportionment that may be used for ADA paratransit purposes. Recipients’ subarea allocation documentation should include language regarding the use of the ADA paratransit provision.</p>	
Crime Prevention and Security Projects	<ul style="list-style-type: none"> <li>• Increased lighting in or adjacent to a public transportation system</li> <li>• Installation of additional cameras in or adjacent to a public transportation system</li> <li>• Emergency telephone lines in or adjacent to a public transportation system to contact law enforcement or security personnel</li> <li>• Cybersecurity improvements</li> <li>• Technology, including any hardware or software investments designed to combat or report crime or improve security</li> <li>• Any other capital project intended to increase security and safety of public transportation</li> </ul>	Public Transportation Security Projects (Page XXX)

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- (1) Special Notes on Eligibility for Projects Under Sections 5337 and 5339(a).
- (a) Section 5337. Projects that solely expand capacity or service are not eligible projects. This includes new maintenance facilities or maintenance equipment required solely for expanded capacity or service. However, FTA will permit projects on expansion of capacity within replacement in order to meet current or projected short-term service needs (e.g., replacing a maintenance facility with a larger facility, or replacing a bus with a larger bus). For any expansion elements included in a replacement project, the recipient will need to address how the project meets current or short-term service levels. FTA will review the reasonableness of such expansion elements when reviewing the grant.

HIB funds must be used for capital expenses associated with public transportation systems. Eligible projects include maintenance, rehabilitation, and replacement of vehicles that are used for providing transit service on High Occupancy Vehicle (HOV) lanes and equipment and facilities that are used for maintaining the vehicles. Projects that maintain and rehabilitate HOV lanes are not eligible for the HIB funds. Projects that maintain and rehabilitate capital assets used for bus service other than bus service on HOV lanes are not eligible for the HIB funds.

When replacing or rehabilitating eligible facilities or equipment, recipients should consider making assets resilient to damage from potential natural disasters to the extent practicable. Recipients may incorporate current design standards into SGR projects, including those that decrease an asset's vulnerability to future disasters. In addition, recipients may replace an eligible facility at a different location (from its existing location) when driven by resiliency decision-making or when replacing it at the existing location is not practical or feasible.

- (b) Section 5339(a). Rolling stock overhauls are the only maintenance capital expense eligible under Section 5339(a). This eligibility for capital assistance applies also to leasing and contracted service. Overhauls are usually performed to make sure rolling stock reaches its useful life. However, overhaul does not extend the useful life of rolling stock.
- (2) Leasing Capital Assets. A recipient of Section 5307, 5337, and 5339(a) formula funds may use those funds to lease capital assets.

Leasing costs eligible for capital assistance include finance charges, including interest; ancillary costs such as delivery and installation charges; and maintenance costs. For additional information about leasing capital assets, see the most recent version of FTA Circular 5010.1.

- (3) Requirements Related to Vehicles and Equipment Eligibility.
- (a) Fleet Expansion. Recipients seeking assistance to undertake fleet and service expansion should describe new markets they intend to serve or whether the

expansion is necessary to meet demands for service in existing markets. The application should address vehicle needs, fleet size, and spare ratio. FTA may request official property records (or a rolling stock status report), in which future needs (expansion and replacement) are discussed. Information may include documentation developed during the metropolitan and statewide transportation planning processes, in which case, summary information and precise reference to the earlier material will be acceptable. The recipient may also include a map indicating the fleet and service expansion locations.

In planning for service expansion, the recipient should use local criteria to identify feasible opportunities for new or expanded routes. These criteria are often based on demographic measures and are used to identify geographic locations that are good candidates for new transit service. The recipient should explore all areas within the region, including areas that are currently served by transit, since they may have potential for different types, spans, or frequencies of service.

In order to comply with the most recent version of Title VI Requirements and Guidelines for Federal Transit Administration Recipients (Circular 4702.1B), recipients that operate fifty or more fixed-route vehicles in peak service and are located in a UZA of 200,000 or more in population must conduct, prior to implementation, service equity analyses for all major service changes in order to determine whether those changes have a discriminatory impact.

In addition, all providers of fixed-route public transportation are required to adopt systemwide service policies to ensure that service design and operations practices do not result in discrimination on the basis of race, color, or national origin. One such policy is related to vehicle assignment. Vehicle assignment refers to the process by which transit vehicles are placed into service in depots and on routes throughout the transit provider's system. Please see the most recent version of FTA Circular 4702.1 for additional information.

- (b) Accessories and Miscellaneous Equipment. A grant application may include certain miscellaneous items separate from the costs of a bus procurement or facilities project. For example, a recipient may apply for mobile radios, bus stop signs or shelters, supervisory vehicles, fareboxes, computers, and shop and garage equipment. The application must explain the rationale or need for each request. FTA does not require a separate justification if, for example, a farebox or radio is included in the cost of a new bus, or shop equipment is included in the cost of a new maintenance facility.
- (c) Innovative Procurement. Per 49 U.S.C. 5339(a)(10), recipients of Section 5339(a) and (b) formula funds should, to the extent practicable, seek to use the procurement tools authorized under Section 3019 of the FAST Act, which addresses innovative procurement. If an eligible recipient or subrecipient of Section 5339(a) or (b) funds purchases fewer than five buses through a stand-



alone procurement, the recipient or subrecipient shall provide a written explanation regarding why they did not use the tools authorized under Section 3019 of the FAST Act.

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

- 1 **Cooperative Procurement Contracts.** A “cooperative procurement contract” means a contract that a State government or eligible nonprofit entity and one or more vendors enter into, under which the vendors agree to provide an option to purchase rolling stock and related equipment to multiple participants. The contract term for a cooperative procurement contract may be for an initial term of not more than two years and may include three optional extensions of one year each. A lead procurement agency or lead nonprofit entity in such a procurement may charge participants in the contract no more than one percent of the total value of the contract.
  - 2 **State Cooperative Procurement Schedules.** A State government may enter into a cooperative procurement contract with one or more vendors if the vendors agree to provide the State government with the option to purchase rolling stock and related equipment and any other participant, and the State government, act as the lead procurement agency. Under prior law, FTA referred to these types of State contracts as “State purchasing schedules” and, as such, they are only available to recipients within that State. Under the FAST Act, a recipient may purchase rolling stock and related equipment from any State’s cooperative procurement contract or schedule.
  - 3 **Joint Procurement Clearinghouse.** FTA has established a clearinghouse to allow recipients to aggregate planned rolling stock purchases and identify joint procurement participants. The clearinghouse is available to transit agency procurement staff through TrAMS. The clearinghouse includes information about potential opportunities for joint procurement of rolling stock, including buses, railcars, and ferries. The tool may be particularly useful to small transit providers looking to pool purchases and create economies of scale. More information on FTA’s joint procurement clearinghouse can be accessed on FTA’s [Joint Procurement Clearinghouse web page](#).
- (d) **Other Requirements Related to Vehicles and Equipment.** Recipients should consult FTA’s Circular 5010.1F for other requirements related to vehicles and equipment including: The Buy America Act, bus testing requirements, minimum useful life, spare ratio and contingency fleets, overhaul and rebuild policies, Transit Vehicle Manufacturer, Disadvantaged Business Enterprise (DBE) requirements, ADA requirements, etc.

- (4) Requirements Related to Facilities Eligibility. This subsection contains information concerning program requirements specific to constructing or acquiring facilities funded under Sections 5307 or 5339(a) or replacing or rehabilitating facilities funded under Section 5337.

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

- (a) Shared Use. Shared use of project property requires prior written FTA approval except when it involves coordinated public transit human services transportation. Recipients should clearly identify shared use projects and should provide sufficient detail to FTA at the time of grant review to determine allocable costs related to non-transit use for construction, maintenance, and operation costs. For further information, see the current version of FTA Circular 5010.1.
- (b) Facility Size. FTA's general policy is to provide assistance to ensure that transit facilities are adequate for the recipient's present needs and that will meet, in a realistic way, its needs of the future. This not only includes room for future expansion based on fleet and service needs but also the potential transition to cleaner fuel vehicles and the infrastructure necessary to maintain and/or accommodate those vehicles.

For a recipient currently operating 20 vehicles, a request for a bus maintenance garage that will accommodate 20 vehicles and have space for a 10 to 25 percent vehicle increase would generally be considered an acceptable grant request. For the same transit agency, a grant request for a garage accommodating 40 vehicles may not be acceptable, unless the recipient can demonstrate through the financially constrained metropolitan planning process, or other credible financially constrained planning process, that its need, willingness, and ability to expand its fleet to 40 vehicles over a period of time that coincides with what will be the useful life of the facility is warranted. Expansions or improvements to provide additional accommodations for cleaner fuel vehicles may also be justified through an agency's fleet transition plan. In either case, however, the purchase of enough land for the future expansion of the fleet and supporting facilities may be justifiable.

- (c) Project Staging. When applying for a grant to build a facility, recipients must be able to fully describe the project and estimate the cost of the facility. Planning for the project may include a feasibility study/needs assessment for the project that provides preliminary cost estimates, funding sources, and possible site locations and related environmental work. The next phase is

engineering and design, which could include costs for development of an environmental document specific to the project, and real estate appraisals. Once FTA has reviewed and approved the environmental documentation, the recipient may request funds for land acquisition and construction.

- (d) Planning Justifications. There must be a planning basis for every project or group of projects. Accordingly, FTA requires recipients to include the planning justification in the grant application they submit into TrAMS. Planning activities are an eligible expense under Section 5307 but not under Section 5337 or 5339(a). However, expenses associated with environmental compliance, engineering, and design that are incidental to project delivery are eligible capital expenses under Sections 5307, 5337, and 5339(a). Recipients should undertake feasibility studies at varying levels of detail, as appropriate and proportionate, in support of projects to acquire, install, construct, replace, or rehabilitate major transit facilities. Further, in the planning stages to determine the site or location of certain facilities (e.g., storage facilities, maintenance facilities, operations centers, etc.), recipients must conduct a Title VI equity analysis to ensure the location is selected without regard to race, color, or national origin in accordance with the applicable requirements laid out in FTA circular 4702.1B, Title VI Requirements and Guidelines for FTA Recipients.

In the grant application, a recipient may choose to reference and summarize relevant parts of other documents, such as sections that report results of project studies (e.g., transportation plans, Unified Planning Work Programs (UPWPs), feasibility studies, capital improvement plans, management systems, etc.). FTA may request copies of studies or summaries of study results upon reviewing a grant application. The following paragraphs provide additional guidance for various kinds of facilities projects.

- 1 Passenger Amenities and Bus Boarding and Alighting Areas. A program for bus shelters and other improvements for bus boarding and alighting areas should be developed for the existing and proposed network. This program should be based on the operator's shelter or bus stop infrastructure improvement and provision criteria and to the extent the construction specifications are within the operator's control and, in the case of significant improvements above baseline conditions, should be described in the grant application. Bus shelters and other improvements to bus boarding and alighting areas must comply with standards for accessibility established by USDOT regulations implementing the transportation provisions of the ADA (49 CFR Parts 27, 37, and 38, as amended). Recipients should develop, and make available upon request, a map indicating the transit network and shelter or other bus stop infrastructure improvements and bus boarding and alighting area locations. Recipients/applicants should also complete and make available the appropriate level of environmental review and documentation.

- 2 Transfer Facility or Transportation Center. The basis for a new transfer facility or transportation center should be documented in a planning/feasibility study. Elements would include a determination of transit demand and other uses, an evaluation of existing transfer facilities or sites to satisfy existing and future transit needs, an evaluation and selection of sites if a new facility is warranted, preliminary concept design and cost estimate of the transit transfer facility, development of a staging and financing plan, and environmental documentation for the new facility.
  - 3 Park-and-Ride Facilities. The basis for a new park-and-ride facility should be documented in a planning/feasibility study. Generally, activities would include an evaluation of demand and service needs, evaluation of sites to satisfy existing and future transit needs, preliminary concept design of the park-and-ride facility, development of a staging and financing plan, and environmental documentation for the new facility.
  - 4 Maintenance and Administrative Facilities. The basis for new maintenance and administrative facilities or major expansions or renovations of existing facilities should be documented in a planning/feasibility study. Activities would include an evaluation of the condition and adequacy of the existing facility, if any, development of site evaluation criteria, identification and evaluation of alternative sites based on site evaluation and design requirements, final site selection and preliminary concept building design, environmental documentation, and the development of a staging and financing plan.
- (e) Joint Development Projects. “Joint development improvements” are eligible capital expenses under 49 U.S.C. 5302(4)(G), and the term commonly refers to the coordinated development of public transportation facilities with other non-transit development, including commercial and residential development. In essence, a joint development project is a public transportation project that integrally relates to, and often shares locations with, commercial, residential, mixed-use, or other non-transit development.

Joint development may include partnerships for public or private development associated with any mode of transit system that is being improved through new construction, renovation, or extension. Joint development may also include intermodal facilities, intercity bus and rail facilities, transit malls, or historic transportation facilities. Coordinated development often involves private and public entities and is supportive of the private sector participation provisions of 49 U.S.C. 5315.

FTA encourages recipients to use real property and facilities purchased and constructed with Federal funds to pursue joint development. FTA’s joint development policy describes additional opportunities to incorporate commercial, residential, industrial, or mixed-use elements into eligible

projects. See Federal Transit Administration Guidance on Joint Development (Circular 7050.1C for more information on FTA's joint development requirements.

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

Depending on the formula grant program (e.g., Sections 5307, 5337, and 5339(a)), eligible activities that could foster TOD include, but are not limited to: construction, renovation and improvement of intercity bus or rail facilities; transportation-related furniture, fixtures, or equipment; transit facilities that incorporate community services; walkways; incorporation of open space in facility designs; real estate acquisition for transit projects; project development activities; and other related professional services. TOD benefits transit by increasing

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

- (7) Bicycle and Pedestrian Paths. Bicycle and pedestrian paths within a certain distance of a transit stop or station qualify as Associated Transit Improvements (ATI) as defined in 49 U.S.C. 5302(2) and are eligible capital projects under Section 5307. Pedestrian paths located within half a mile of a transit stop or station, and bicycle paths located within three miles of a transit stop of station, are eligible capital projects. Projects outside this distance may be eligible if they are within a distance that a person could be expected to safely and conveniently walk or bike to the particular stop or station. The Federal share for these activities is 80 percent.
- (8) Capital Cost of Contracting. Some FTA recipients turn to one or more outside third-party sources to obtain public transportation service, maintenance service, or vehicles that the recipient will use in public transportation service. When recipients contract for such service, FTA will assist with the capital consumed over the course of the contract. In the case of a contractor providing vehicles for public transportation service, the capital consumed is equivalent to the depreciation of the vehicles in use in the public transportation service during the contract period. In the case of a maintenance contract, the capital consumed may be, for example, depreciation of the maintenance garage, or depreciation of the machine that lifts the vehicle. Capital consumed may also include a proportionate share of the interest the contractor might pay out as the contractor purchases and makes these capital assets available to the recipient. FTA refers to the concept of assisting with capital consumed as the “capital cost of contracting.” FTA will provide assistance at the 80 percent/20 percent FTA/local share ratio for the capital cost of contracting.

Costs that may be associated with a recipient’s purchase of transportation service, maintenance service, or use of vehicles from a separate entity should not automatically be deemed eligible capital costs of contracting. A purchase of service arrangement must be mindful of the funding sources used to obtain the assets to be used. Only the costs attributable to the recipient’s use of privately owned assets are eligible under this policy, as publicly owned or funded assets that are used in the provision of services could potentially result in “double dipping” public revenues and having a Federal interest overlapping another public interest. With one exception, assets purchased with Federal, State, or local government assistance are not eligible. The exception is a public transportation vehicle privately owned in which the recipient has invested FTA funds from the Over-the-Road Bus Accessibility Program to finance incremental capital costs of complying with the ADA Act. Any capital that may be consumed under the applicable contract for service or maintenance that does not meet the definition of public transportation, such as for charter or school bus service, is not an eligible cost.

In addition, FTA provides assistance for preventive maintenance under Sections 5307 and 5337, which is defined as all maintenance. In some instances, a recipient may contract with outside sources for both maintenance and public transportation



service (i.e., contractor provides both maintenance and vehicles). In such cases, both FTA's capital cost of contracting and preventive maintenance standards will apply.

To avoid imposing burdensome accounting rules, with regard to contracts for Fixed Guideway, bus and paratransit-related services, FTA will allow Section 5307 recipients to consider a percentage of leased service or contracted maintenance capital costs without further justification and will provide assistance for 80 percent of the resulting amount. Table IV-4, below, shows the percentages and the corresponding type of contract service for bus and paratransit-related services. These percentages are based off of data from the NTD. Presented by type of contract, these calculations represent industry averages in counting capital-eligible activities as a share of total cost. The percentages apply whether the service is local, express, shuttle, or paratransit.

**TABLE IV-4: PERCENT OF CONTRACT ALLOWED FOR SECTION 5307 CAPITAL ASSISTANCE WITHOUT FURTHER JUSTIFICATION**

(Based on assumption that contractor provides the assets)

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



**Note:** This table does not apply to Sections 5337 or 5339(a). Instead, contract expenses eligible for reimbursement under Section 5337 are limited to the amounts attributable to vehicle maintenance and leasing and/or depreciation of vehicles, equipment, and facilities being replaced as part of state of good repair efforts. Contract expenses eligible for reimbursement under Section 5339(a) are limited to the amounts attributable to leasing and/or depreciation of vehicles, equipment, and facilities. The contractor may include eligible expenses as line items in the contract, and FTA will participate at 80 percent of actual costs. The applicant or recipient should upload the contract to the “Application Documents” section of the grant application in TrAMS, for verification purposes.

The calculations in Table IV-4 above are based on the assumption that the contractor (or someone other than the recipient) provides the assets. For example, if a contractor provides maintenance, FTA assumes in the calculations that the contractor does so in a facility provided by the contractor. If the recipient is providing maintenance, this does not apply to bus service. For another example, in a contractor-operated vanpool program that qualifies under a Turnkey Contract (see Type 6), a van pool driver provides the service rather than a contractor employee, but the recipient does not provide service.

A recipient may request FTA participation in a higher percentage of the contract than FTA prescribes in Table IV-4 with adequate justification.

A recipient applying for assistance with costs that contain any of the capital costs of contracting arrangements listed in Table IV-4 may list costs for the contracted service in the capital cost of contracting budget category, or the recipient may use both that category and another appropriate category, such as preventive maintenance or leasing, as long as the total cost does not exceed the amount of the contract.

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

Costs of a contract which remain after application of capital cost of contracting are considered operating expenses. These costs may, depending on the size of the UZA, recipient, or purpose of the service, be eligible for Federal operating assistance. For example, in a UZA with a population of under 200,000, 50 percent of a turnkey contract

(Type 6) would be eligible for Federal capital assistance at a matching ratio of 80 percent Federal. The remaining 50 percent of the costs of the contract, less any fares received, would be eligible for Federal operating assistance at a matching ratio of 50 percent Federal. Recipients may not double count the same costs of a contract and receive both capital and operating assistance. Thus, if a maintenance or lease contract (Type 5) is treated as a capital expense under capital cost of contracting, none of these expenses would be reimbursable as an operating expense.

b. Workforce Development Activities.

- (1) Human Resources and Training. Pursuant to 49 U.S.C. 5314(b), up to 0.5 percent of recipients' Section 5307, 5337, and 5339(a) funds each fiscal year are available to be expended on programs that address human resource needs, as they apply to public transportation activities. These funds may be expended at a Federal share not to exceed 80 percent.

Applicable programs may include:

- (a) An employment training program;
- (b) An outreach program to increase employment for veterans, females, individuals with disabilities, and minorities (including American Indians or Alaska Natives, Asian, Black or African Americans, native Hawaiians or other Pacific Islanders, and Hispanics) in public transportation activities;
- (c) Research on public transportation personnel and training needs;
- (d) Training and assistance for veteran and minority business opportunities; and
- (e) Consensus-based national training standards and certifications in partnership with industry stakeholders.

In addition, supportive services may be eligible. Supportive services are wraparound services that help individuals, and especially those from underrepresented and underserved groups, enroll in and successfully complete training. Supportive services include, but are not limited to, child and dependent care, tools, work clothing, application fees and other costs of apprenticeship or required pre-employment training, transportation, and travel (including lodging) to training and work sites, and services aimed at helping to retain underrepresented groups such as mentoring, tutoring, support groups, and peer networking.

Supportive services costs are allowable if they comply with the cost principles for Federal awards (see 2 CFR Subpart E – Cost Principles). To be allowable, the costs must be:

- Necessary and reasonable for the performance of the Federal award (2 CFR 200.403(a)) – in this case, be necessary for participants, including those from

underrepresented and underserved groups, to partake in workforce development, training, and education activities.

- Accorded consistent treatment, meaning a cost may not be assigned to the Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost (200.403(d)).

- (2) National Transit Institute. Pursuant to 49 U.S.C. 5314(c), up to 0.5 percent of recipients' Section 5307, 5337, and 5339 funds are available each fiscal year to use for direct educational expenses at the National Transit Institute or to carry out other existing local education and training programs supported by the Departments of Transportation, Labor, or Education, for education and training of State and local transportation employees at a Federal share not to exceed 80 percent.

States, but not other recipients, may also use these funds for tuition and direct educational expenses through grants and contracts with public and private agencies, and other institutions and individuals.

Direct educational expenses include supplies, tuition, and travel to and from training. Overtime pay is an employment expense, it is not an educational expense or an eligible expense. The applicant should include proposed training activities it will support with Section 5307, 5337, and/or 5339(a) funds in its corresponding application(s). In addition, the MPO must reflect proposed training in the Transportation Improvement Program (TIP), and States must reflect proposed training in the Statewide Transportation Improvement Program (STIP).

Recipients are also advised that training and educational expenses, such as travel expenses relating to staff attendance at FTA-sponsored workshops, may also qualify for reimbursement as an operating expense at a 50 percent Federal share.

- (3) Public Transportation Safety Certification Training. Recipients of Section 5307 funds may expend not more than 0.5 percent of their formula funds for the costs of participating in the Public Transportation Safety Certification Training Program established under 49 U.S.C. 5329(c) for employees who are directly responsible for safety oversight. These costs require a 20 percent local matching share.
- (4) Preventive Maintenance. Technical training of maintenance personnel is eligible as a preventive maintenance cost at an 80 percent Federal share for programs in which preventive maintenance is eligible.
- (5) Operating Assistance. Training of operating personnel is eligible as an operating cost at a 50 percent Federal share for programs and recipients for which operating is eligible.
- c. Interest And Debt Financing as An Eligible Cost. There are several areas where interest is an eligible project cost for FTA's Section 5307, 5337, and 5339(a) program assistance, with certain limitations (including the factors indicated in 2 CFR Part 200.449(c)-(g)).

Bond interest under advance project authority, buildings and equipment, working capital, leasing, capital cost of contracting, and other interest costs are often eligible project costs. For further information, please refer to Circular 5010.1F.

4. ADDITIONAL ACTIVITIES APPLICABLE TO SECTION 5307 ONLY.

- a. Planning Projects. Section 5307 funds are available for the planning, engineering, design, and evaluation of public transportation projects and for other technical transportation-related studies. Eligible activities include, but are not limited to: studies relating to management, operations, capital requirements, and economic feasibility; work elements and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment; plans and specifications; evaluation of previously funded projects; JARC projects; and other similar or related activities before and in preparation for the construction, acquisition, or improved operation of public transportation systems, facilities, and equipment.

FTA encourages recipients to use Section 5307 funds for technical studies of special interest to the transit agency, such as maintenance plan development, operational service planning, Transit Asset Management plans, public transportation safety plans, and management and operations planning studies. FTA also encourages recipients to use program funds to supplement regular formula planning funds allocated to States and MPOs under 49 U.S.C. 5305(d) and (e) when those resources are insufficient to meet such needs. Similarly, where recipients or the Federal government propose high-cost or large-scale studies, such as those for major capital investments, recipients may use Section 5307 funds. Recipients may also use these funds to supplement FHWA planning funds.

All planning projects carried out within the metropolitan transportation planning process that use FTA or FHWA funds must be included in the UPWP, as approved by the MPO. The UPWP must include a list of the proposed planning projects, project scopes, and related costs.

For more information on planning activities, please refer to [Program Guidance for Metropolitan Planning and State Planning and Research Program Grants](#) (Circular 8100.1C).

- b. Operating Assistance. Under Section 5307, FTA provides funding to eligible recipients for costs incurred in the operation of public transportation service. In general, operating expenses are those costs necessary to operate, maintain, and manage a public transportation system. Operating expenses usually include such costs as driver salaries, fuel, and items having a useful life of less than one year.
- (1) Eligible Recipients of Operating Assistance.
- (a) Recipients in Small UZAs: Recipients in UZAs with populations of less than 200,000 may use Section 5307 funds for operating assistance. There is no limitation on the amount of their apportionment that recipients in these UZAs may use for operating assistance.
- (b) Recipients in Large UZAs: Recipients in UZAs with populations of 200,000 or more may not use Section 5307 funds for operating assistance unless FTA has identified such costs as eligible under Section 5307(a)(2).

Under Section 5307(a)(2), public transportation operators that operate 100 or fewer buses or other revenue service vehicles in fixed-route service or in demand response service, excluding ADA complementary paratransit service, during peak service hours may use a variable percentage of their UZA's 5307 apportionment for operating assistance. However, recipients may not use these Section 5307 funds for rail fixed guideway operating assistance. Eligible agencies may use program funds for operating assistance up to the amount published by FTA for a given fiscal year, with one exception as noted at the end of this subsection.

The use of program funds for operating assistance is subject to metropolitan and statewide planning requirements. For recipients to use the funds for operating assistance, they must have been allocated to the recipient for that purpose by the Designated Recipient for the respective UZA. If an agency provides public transportation across multiple UZAs, that agency will receive an operating cap for each UZA. Operating assistance caps for eligible operators are published on FTA's website.

The amount available to eligible operators is based on the following:

- 1 Systems that operate a minimum of 76 buses and a maximum of 100 buses or other revenue service vehicles in fixed-route service or in demand response service, excluding ADA complementary paratransit service, during peak-hour service may receive operating assistance in an amount not to exceed 50 percent of the share of the apportionment that is attributable to such systems within the UZA as measured by VRH.
  - 2 Systems that operate 75 or fewer buses or other revenue service vehicles in fixed-route service or in demand response service, excluding ADA complementary paratransit service, during peak-hour service may receive operating assistance in an amount not to exceed 75 percent of the share of the apportionment that is attributable to such systems within the UZA as measured by VRH.
  - 3 If an operator has both fixed route and Demand Response service, the allocation is based on the number of fixed route vehicles only. The amount available (operating cap) to each operator within a UZA is calculated by dividing the UZA's apportionment by the total number of VRH reported in the UZA from all public operators and multiplying this quotient by the number of total VRH operated in the UZA by the eligible system, and then by either 50 or 75 percent as indicated above.
- (2) Exception to Operating Assistance Caps: For cases where there is more than one operator within a single UZA, an operator may expend up to 10 percent greater than the operating assistance cap, as explained above, if the share attributable to the system is included in the Designated Recipient's final POP for the apportionment, as determined through the local planning process, and provided that the share does

not exceed the applicable percentage available to the system for operating assistance (i.e., 75 percent or 50 percent) based on the number of vehicles it operates in peak hours.

- (3) Expenses Eligible for Operating Assistance. Eligible operating expenses are direct labor, material, and overhead expenses incurred during a specified project period, most often one local fiscal year. Costs are calculated on the accrual basis of accounting by the operator providing public transportation services in the UZA. Expenses for contractual services directly related to the management and operations of public transportation services, which are otherwise not reimbursed, are included. Recipients must comply with the cost principles established in Subpart E of 2 CFR Part 200 when determining whether specific expenses are eligible for FTA reimbursement. Appendix A: Operating Assistance Projects of this circular provides an operating expense worksheet to assist recipients with determining the amount of available Section 5307 funds that the recipient may request of FTA. An award for operating assistance activities is not meant to be an open, ongoing award. These awards should contain no more than three apportionment fiscal years of funding. The award may be amended multiple times to account for the three fiscal years of funding allocated to the recipient. Any request may only be for the immediately preceding year and/or current year activities. Following is an illustrative listing of operating expenses that are eligible for FTA operating assistance:

- (a) Fuel, wages, and other expenses incurred in the operation of public transportation services to or within the UZA;
- (b) Routine maintenance, technical support, and user fees for technology and software used in the operation of public transportation;
- (c) Pension benefits and contributions to a pension plan, only if actually paid and only up to a maximum of the current year accrual;
- (d) Self-insurance costs are limited to the extent of actual contribution to a reserve for an approved self-insurance program;
- (e) Purchase of service contracts for public transportation services (except that certain portions of a service contract may be treated as a capital expense under the Capital Cost of Contracting);
- (f) Interest and other financial costs associated with borrowing to provide working capital for the payment of current operating expenses. The recipient must properly document the loan agreement and open it to audit;
- (g) Operating expenses associated with special public transportation services for people with disabilities (some of these costs may be supported as capital expenses);



- (h) Amortization of leasehold improvements may be eligible; recipients should discuss this with the FTA Regional Office;
  - (i) For private operators, a reasonable return on investment (profit) is an eligible expense; and
  - (j) Eligible public transportation security operating assistance projects include, but are not limited to:
    - 1 Staff salaries for personnel exclusively involved with security;
    - 2 Contracts for security services; and
    - 3 Any other operating projects intended to increase the security and safety of an existing or planned public transportation system.
  - (k) Indirect costs, provided that there is an approved cost allocation plan before incurring costs.
- (4) Operating Expenses Not Eligible for FTA Assistance. To find standards for determining eligible and ineligible expenses, see 2 CFR Part 200. In practice, when recipients apply for FTA Section 5307 funding, eligible operating expenses are derived as the remainder when various categories of ineligible expenses are subtracted from total operating expenses.

Ineligible expenses are actual or estimated expenses incurred during the project-specified time period for activities not related to the provision of public transportation or the provision of public transportation within a recipient's applicable UZA. Recipients may not include ineligible expenses when calculating the net project cost. Ineligible activities in UZAs might include, but are not limited to, the following:

- (a) Charter bus operations;
- (b) Sightseeing services;
- (c) Freight haulage;
- (d) School bus operations (i.e., operations for the exclusive transportation of school students, not the carrying of students in regularly scheduled public transportation services);
- (e) Intercity bus or ferry transportation other than commuter service;
- (f) Intercity passenger rail transportation provided by Amtrak and state-supported Amtrak services that use Amtrak branding, are included in Amtrak's schedules, use Amtrak's ticketing systems, participate in Amtrak's

customer loyalty program, and/or benefit from Amtrak's priority access to Class I railroads

- (g) Public transportation services wholly outside of the UZA;
  - (h) Expenses for contingencies including contributions to a capital reserve account or fund;
  - (i) Capitalized costs or expenses recognized as part of and reimbursable under another FTA project;
  - (j) Expenses incurred by a governor, Designated Recipient, or other agency in its capacity as an intermediary for providing Urbanized Area Program funds between FTA and the public transportation operating entity;
  - (k) Indirect public transportation-related functions or activities of State, regional, or local entities performed as a normal or direct aspect of general public administration;
  - (l) For private operators of public transportation, provision for Federal, State, or local income taxes;
  - (m) Depreciation accrued by public operators, depreciation on facilities or equipment purchased with public (Federal, State, or local) capital assistance, depreciation of an intangible asset, depreciation in excess of the rate otherwise used for income tax purposes, or both;
  - (n) Interest expense on long-term borrowing and debt retirement;
  - (o) Lobbying expenses;
  - (p) Revenue items that directly offset public transportation expenses (referred to as contra-items), such as the following:
    - 1 Interest income earned on working capital;
    - 2 Proceeds from the sale of equipment in excess of the depreciated value (private operators only);
    - 3 Cash discounts and refunds that directly offset accrued expenses;
    - 4 Insurance claims and reimbursements that directly offset accrued liabilities; and
    - 5 State fuel tax rebates to public operators.
- c. Job Access and Reverse Commute (JARC) Projects. This eligible project category includes all types of projects that were formerly eligible under the Section 5316 JARC program prior to its repeal by the Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-

21) Act. Examples of eligible projects are listed in paragraph (e) below. There is no requirement or limit to the amount of Section 5307 funds that can be used for these projects.

Although private nonprofit organizations are not eligible subrecipients of Section 5307 funds used for other project categories, private nonprofit organizations may receive funding for JARC projects as a subrecipient of an FTA Designated or Direct Recipient.

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

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

Consistent with this definition, JARC projects may include operating assistance in a large UZA, where operating assistance is otherwise not an eligible expense. Operating assistance for eligible JARC projects is not limited by the “100-bus” special rule for operating assistance under 49 U.S.C. 5307(a)(2).

In order for a JARC project to receive funding under Section 5307, it must meet the following requirements:

- (1) New and Existing Services. Eligible JARC projects must provide for the development or maintenance of eligible JARC services. Recipients may not reclassify existing public transportation services that have not received funding under the former Section 5316 program as JARC services in order to qualify for operating assistance. To be eligible as a job access and reverse commute project, a proposed project must qualify as either a “development project” or “maintenance project” as follows:
  - (a) Development Projects. “Development of transportation services” means new projects that meet the statutory definition and were not in service as of the date MAP-21 became effective (October 1, 2012). This includes projects that expand the service area or hours of operation for an existing service. Projects for the development of new qualifying JARC projects must be identified as such in the Designated Recipient’s POP for the applicable UZA.
  - (b) Maintenance Projects. “Maintenance of transportation services” means projects that continue and maintain JARC projects and services that received funding under the former Section 5316 program.
- (2) Reverse Commute Projects. Reverse commute projects are a category of JARC projects that provide transportation services from urbanized and rural areas to suburban employment locations. Generally, these services increase the capacity of public transportation services operating in the reverse direction of existing peak

services. Reverse commute projects may only qualify as JARC projects under Section 5307 if they meet all other requirements, including having been designed to transport welfare recipients and eligible low-income individuals to and from jobs and employment-related activities.

- (3) Welfare Recipients and Eligible Low-Income Individuals. Projects funded as “job access and reverse commute projects” must be designed to provide transportation for welfare recipients and eligible low-income individuals. The term “low-income individual” is defined as an individual whose family income is at or below 150 percent of the poverty line, as that term is defined in Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that Section, for a family of the size involved. Projects that serve the general public without specific route or design characteristics intended to respond to the needs of these populations may not be eligible as a JARC project. However, JARC projects do not need to be designed exclusively for these populations.
- (4) Planning and Program Development. In order for an entity to receive Section 5307 funding for a JARC project, the Designated Recipient must identify the project as a JARC project in the POP for the applicable UZA, which must be made available for public review and comment.

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

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

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

- (m) Supporting mobility management and coordination programs among public transportation providers and other human service agencies providing transportation. Mobility management techniques may enhance transportation access for populations beyond those serviced by one agency or organization within a community. Mobility management is intended to build coordination among existing public transportation providers and other transportation service providers with the result of expanding the availability of service.

5. ELIGIBILITY OF USE OF FUNDS OUTSIDE APPORTIONED UZA. Whether Section 5307, 5337, or 5339(a) funds apportioned or transferred to a UZA may be used outside that UZA depends on the type and location of the activity to be funded as follows:

- a. For Operating Assistance (Section 5307 only): If it is otherwise an eligible expense for a public transportation provider in a UZA, Section 5307 funds apportioned or transferred to that UZA may be used for operating assistance outside the UZA as long as the funds support a geographically continuous public transportation service with one or more route stops in the UZA.
- b. For Capital Activities (Sections 5307, 5337, or 5339(a)): For eligible capital activities that involve immobile capital assets (e.g., rail stations, bus stops and terminals, fixed-guideway track, etc.), Section 5307, 5337, or 5339(a) funds apportioned or transferred to a UZA may only be used within the UZA to which they were apportioned or transferred. An exception to this is if a recipient attributes Fixed Guideway miles for service outside of the UZA to the UZA as described in 49 U.S.C. 5336(b)(2)(E), in which case the recipient may support immobile capital assets outside of the UZA that contribute to or are otherwise associated with that Fixed Guideway segment.

If the activities to be funded involve mobile capital assets for which their use does not tie to a specific location (e.g., acquisition and/or maintenance of rolling stock), funds apportioned to a UZA may be used outside the UZA if they support a geographically continuous public transportation service with a route stop(s) within the UZA.

- c. Recipients of Both UZA and Rural Funds: If a public transportation provider receives a combination of funds apportioned or transferred to a UZA and rural funds, and the recipient will use those funds for a geographically continuous public transportation service with a route stop(s) in both a UZA and rural area, the provider may either develop a reasonable methodology for allocating a combination of UZA and rural funds or allocate only UZA or rural funds to the service or to mobile capital assets that support the service. If a service includes stops in both a rural area and an urban area, rural funds may only be allocated to the service in proportion to the extent that the service is serving a rural area. Rural funds may not be used to support a portion of a service that is internal to an urban area, with passengers both boarding and alighting in an urban area. That portion of such a service must be funded either with urbanized area funds, or else with non-Federal funds.
- d. NTD Reporting: A recipient's service data for public transportation services that engage more than one UZA or both a UZA and a rural area should be allocated to the respective

UZAs or rural areas in accordance with the [NTD Policy Manual](#) that is applicable to the recipient's NTD report year.





**CHAPTER V:****PLANNING & PROJECT DEVELOPMENT**

1. **METROPOLITAN, STATEWIDE, AND NONMETROPOLITAN PLANNING REQUIREMENTS.** A grant applicant requesting Section 5307, 5337, or 5339(a) assistance must comply with the planning requirements of 49 U.S.C. 5303, 5304, 5305, and 5306. Before FTA may make grants to recipients, adequate planning must take place. The proposed project must be a product of the metropolitan planning process or the statewide and nonmetropolitan transportation planning process specified in 23 CFR Part 450 and 49 CFR Part 613.

MPOs that serve areas designated as a Transportation Management Area (TMA) must include representation by providers of public transportation. Composed of local elected officials, appropriate State officials, and officials of public agencies that operate major modes of transportation in the region (including representation by providers of public transportation), the MPO is responsible for the development and adoption of the Metropolitan Transportation Plan (MTP) (minimum 20-year horizon) and the shorter term (minimum of 4 years) TIP.

All transit projects for which Federal funds are expected to be used and that are within Metropolitan Planning Area (MPA) boundaries must be included in an MPT and TIP. Joint FTA/FHWA transportation planning regulations contained in 23 CFR 450.312 include guidelines on determining the boundaries of an MPA. MTPs and TIPs must be developed by the MPO and approved by the governors of the State or States under the MPO's purview. The TIP must also be included in a STIP that has been approved by FTA and FHWA. Projects listed in the TIP must be derived from, and consistent with, the MPO's MTP, and projects listed in the STIP must be derived from and consistent with the long-range statewide transportation plan. Projects funded under other FTA programs that fall outside of MPA boundaries are only required to be in the STIP.

Irrespective of a project's location relative to an MPA boundary, applications for projects should identify the latest approved STIP/TIP (or amendments) containing the project(s), the appropriate page numbers or other identifying numbers, and a statement identifying the date that FTA and FHWA approved the STIP/TIP (or STIP/TIP amendment) that contains the proposed project(s) within the appropriate section in TrAMS.

MPA boundaries are usually more extensive than the UZA boundaries to which they correspond. As such, projects funded under 49 U.S.C. 5311 or other rural programs may be located within MPA boundaries but not within a UZA boundary and may or may not need to be included in the MTP and TIP for the respective MPO. Recipients should contact their regional office for TIP requirements pertaining to specific transit projects.

MPO planning projects must be included in the UPWP. In addition, MPOs may reference planning projects in the TIP for informational purposes.

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

Implementing regulations, “Statewide and Nonmetropolitan Transportation Planning” and “Metropolitan Transportation Planning,” are set forth at 23 CFR Part 450 and 49 CFR Part 613.

More information on the planning process can be found in the following regulations and guidance documents:

- a. “Statewide and Nonmetropolitan Transportation Planning” and “Metropolitan Transportation Planning,” 23 CFR Parts 450 and 500 and 49 CFR Part 613. The regulations outline the requirements for State Departments of Transportation (State DOTs), MPOs, and public transportation operators to conduct a continuing, comprehensive, and coordinated transportation planning and programming process in metropolitan areas and States; and
  - b. Program Guidance for Metropolitan Planning and State Planning and Research Program Grants (Circular 8100.1C).
2. TRANSPORTATION MANAGEMENT AREAS. Under 49 U.S.C. 5303(k), the Secretary of Transportation identifies TMAs for each Urban Area with a population of more than 200,000. The Secretary of Transportation shall designate any additional areas (that meet this population threshold) as a TMA at the request of the governor and the MPO designated for the area. FHWA and FTA jointly certify every four years that the planning process of the TMA is being carried out in accordance with applicable provisions of Federal law.
  3. PERFORMANCE-BASED PLANNING. Section 5303(h) of title 49 U.S.C. includes a broad performance management program. The performance management framework attempts to improve project decision-making through performance-based planning and programming and foster a transparent and accountable decision-making process for MPOs, States, and providers of public transportation. MPOs and States are required to develop their long-range transportation plans and transportation improvement programs through a performance-driven, outcome-based approach to planning for the metropolitan and nonmetropolitan areas of the State.
  4. ROLE OF DESIGNATED RECIPIENT AND METROPOLITAN PLANNING ORGANIZATION IN ALLOCATING PROGRAM FUNDS. Under Sections 5307, 5339(a), and 5337, the State or Designated Recipient is responsible for receiving and apportioning the amounts made available by Congress and apportioned by FTA to a UZA. The State or Designated Recipient receives and apportions the amounts within the UZA to the State, regional authorities, or other public agencies.

Pursuant to 49 U.S.C. 5303, an MPO, which in some cases may also serve as the Designated Recipient, is the forum for cooperative decision-making to carry out the transportation planning process.

Both the planning requirements and the statutory provisions of 49 U.S.C. Chapter 53 specify the roles of the MPO and of the Designated Recipient. Although the MPO develops and adopts the TIP, the Designated Recipient, which may in some cases also be the MPO, is responsible for developing the POP for the Section 5307 and 5339(a) funds apportioned to a UZA for inclusion in the TIP.

In a small UZA (population of at least 50,000 but less than 200,000), the TIP may take the place of the POP once it is adopted by the State into the STIP. If the TIP does not contain sufficient detail about the projects, the operators and MPO may develop the Program of Projects and present it to the State.

In the case of multiple Designated Recipients or multiple MPOs, the Designated Recipient(s) must work with the MPO(s) to ensure that the POP requirements are met by inclusion of all projects in the TIP(s). The MPO and the Designated Recipient must work cooperatively to develop the TIP and agree on how to spend Section 5307, 5337, and 5339 funds.

5. SUBAREA ALLOCATION. In UZAs with more than one Designated Recipient or other recipients, FTA expects local officials, operating through the MPO, and the Designated Recipient(s) to determine the allocation of Section 5307, 5337, and 5339(a) funds together. The Designated Recipient(s) and the MPO(s) should determine the subarea allocation fairly and rationally through a process based on local needs and agreeable to the Designated Recipient(s). A sub-allocation that is based on predetermined fixed percentages for example, may not adequately represent the needs of transit systems in the UZA.

Designated Recipients must provide documentation to FTA showing how, if any, Section 5307, 5337, or 5339(a) allocations will be split among the recipients in a Split Letter to FTA, as explained in Chapter II. FTA may request a written agreement signed by a representative of each Designated Recipient or entity involved.

To assist in making such subarea allocations, the relevant parties in any UZA may request that the appropriate FTA Regional Office coordinate with FTA Headquarters staff in providing the necessary disaggregated data used in apportioning the total UZA's share of Section 5307, 5337, and 5339(a) funds.

6. PROGRAM OF PROJECTS (POP) AND PUBLIC PARTICIPATION REQUIREMENTS. A POP is a list of projects proposed by the Designated Recipient to be funded from the UZA's Section 5307 and 5339(a) apportionment. If more than one recipient will apply for grants for projects in the POP, each grant application must include the portion of the POP that identifies the projects to be funded in the grant. The POP must include a description of each project to be funded from the UZA's apportionment(s), including any suballocation among public transportation providers, total project costs, local share, and Federal share for each project. Section 5307 and 5339(a) projects may be included in the same Program of Project for administrative purposes. Where there are multiple Designated Recipients or MPOs for a UZA, the POP may be presented in several separate parts for the purpose of programming and public participation. As stated above, eligibility for funding under most FTA and FHWA programs also requires the MPO and State to list projects in the approved

TIP and STIP for metropolitan areas, respectively, or the State must list projects in the approved STIP for nonmetropolitan areas.

- a. Subrecipients. FTA and its recipients must comply with the Federal Funding Accountability and Transparency Act (FFATA) of 2006, Pub. L. 109–282, as amended by Section 6202 of Public Law 110-252, and implemented by 2 CFR Part 170. In order to do so, grant recipients must provide FTA with the following information for any subrecipient: the name of the entity receiving the award, the amount of the award, the location of the entity receiving the award, and the primary location of performance under the award including the city, State, and congressional district. The grant recipient is required to submit this information and may choose to submit this information as a separate attachment in TrAMS or include the information in the POP.
- b. Programming in TIP or UPWP. Eligibility for most FTA and FHWA programs, including Sections 5307, 5337, and 5339(a), requires the MPO to list capital and operating assistance projects in the approved TIP, and States must list them in the STIP. For further information, please refer to FTA Circular 8100.1C.
- c. Public Participation Requirements. To receive a grant under Sections 5307 or 5339(a), a recipient must meet certain public participation requirements when developing a POP and must certify compliance with these requirements. The requirements are listed in 49 U.S.C. 5307(b)(1) through (7) and are discussed in the paragraphs below. The recipient may satisfy these requirements in whole or in part through the development of the MPA's TIP and the local coordinated public transit-human services transportation plan.

Either the Designated Recipient for a UZA or each individual Direct Recipient must:

- (1) Make available to the public information concerning the amount of funds available under the Section 5307 and/or 5339(a) programs and the POP that the recipient(s) propose(s) to undertake with such funds;
- (2) Develop a proposed POP for activities the Designated or Direct Recipient(s) will finance, in consultation with interested parties, including private transportation providers and human services organizations or transit operators representing the employment-related transportation needs of welfare recipients and low-income individuals for any proposed Section 5307 or 5339(a) projects;
- (3) Publish the proposed POP in sufficient detail and in a way that gives affected members of the public, private transportation providers, local elected officials, and representatives of welfare recipients and low-income individuals (for any proposed Section JARC projects) reasonable and adequate opportunity to examine the proposed program and submit comments on the proposed program and on the performance of the recipient;
- (4) Provide an opportunity for a public hearing to obtain the views of the public on the proposed POP;

- (5) Ensure that the proposed POP provides for the coordination of Section 5307 or 5339 public transportation services with transportation services assisted with other Federal sources;
  - (6) Consider comments and views received, including those of private transportation providers and human services organizations or transit operators representing the employment-related transportation needs of welfare recipients and low-income individuals for any proposed Section 5307 JARC projects, in preparing the final POP; and
  - (7) Make the final POP available to the public. **Note:** Where there are multiple Designated Recipients and/or multiple MPOs, this public participation requirement may be met in several separate processes for the different areas involved.
- d. Satisfying the Requirement for Public Participation in Development of the Program of Projects (POP) using the Transportation Improvement Program Process. FTA has determined that when a recipient follows the procedures of the public involvement process outlined in the FHWA/FTA planning regulations that pertain to the development of the metropolitan TIP, the recipient satisfies the public participation requirements associated with development of the POP that recipients of Section 5307 and 5339(a) funds must meet.

A recipient that chooses to integrate the two should coordinate with the MPO and make sure the public knows that the recipient is using the public participation process associated with TIP development to satisfy the public hearing requirements of Section 5307(b). The recipient must ensure the TIP document explicitly states that the public notice of public involvement activities and time established for public review and comment on the TIP will satisfy the POP requirements of the Section 5307 and 5339(a) programs. Furthermore, FTA encourages recipients to include such a reference in the metropolitan planning agreement required between public transportation operators, MPOs, and States, as called for in 23 CFR 450.314. Regulations at 23 CFR 450.316 provide a detailed description of the public participation plan.

- e. Substitute (Contingency) Projects. A grant application for Section 5307 funds may include substitute projects. Substitute projects may be drawn from years one, two, three, or four of the approved TIP. Applicants must include any substitute projects in the grant application (not the grant budget) and the project must meet the same requirements as other projects in the grant application (e.g., environmental, clean air, civil rights, labor protection requirements, etc.). Although the applicant must provide budget information about a substitute project in the grant application, the applicant must not include these figures in the total project cost. If a recipient postpones or drops a project within the grant application, the recipient may move the substitute project from “below the line” into the grant budget, with written notification and explanation to FTA. If the applicant draws the project from years two, three, or four of the TIP, the applicant must advance it to year one through the appropriate TIP/STIP amendment process before FTA may approve the budget revision. The applicant must provide FTA with the TIP/STIP amendment documentation.

- f. Budget Constraints, Additional Information. The total Federal share for the final POP may not exceed the amount apportioned to the UZA or the total of amounts allocated to applicants by the Designated Recipient from these amounts, plus any Section 5307 or 5339(a) carryover funds for previous years, funds transferred from other UZAs or from the Section 5311 program, or for flexible funding from FHWA. Apportioned funds transferred to another UZA or to the Section 5311 program should be deducted from those available to the donating area.
- g. Revisions to Program of Projects (POP), TIP, and STIP. Recipients of Section 5307 and 5339(a) funds may wish to modify an award after execution for a project included in a POP, TIP, and STIP after they are adopted by a Designated Recipient, MPO, or State, as applicable. Any such changes must be made in accordance with the modifications to awards requirements included in FTA Circular 5010.1F. A POP is not required for Section 5337, but Section 5337 funds must be included in the TIP and STIP.

If the outcome of a proposed award modification will deviate from the previously adopted and applicable POP, TIP, or STIP, the recipient should submit documentation that the POP, TIP, and STIP have been amended or updated to reflect the change before the award modification is executed. The recipient should attach the revised POP, TIP, and STIP to the Recipient Profile in TrAMS. Proposed award modifications may involve, but are not limited to, changing the scope of work or amount or type of Federal assistance allocated for a project covered by the award; removing or adding projects; or changing project location, National Environmental Policy Act (NEPA) determination, period of performance, or quantity of items to be purchased or constructed that substantially changes the purpose or intent of the award. Related awards may also require post-award modification if the project change impacts other FTA financial assistance.

7. COORDINATED PLANNING. Projects funded by formula grants for the Enhanced Mobility of Seniors and Individuals with Disabilities (Section 5310) must be derived from a locally developed, coordinated public transit-human services transportation plan.

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

Although the coordinated planning process is no longer required for JARC projects, FTA encourages public transit systems in all areas to continue to participate in the coordinated public transit-human services transportation planning process in order to identify and develop JARC projects for funding under Section 5307. This process gives affected populations direct participation in the formulation and approval of projects that are intended to serve them, and it provides an opportunity for a variety of public, private, and private nonprofit transportation providers, non-DOT transportation programs, and other community interests to likewise share their knowledge and participate in formulating projects and identifying opportunities for coordination.



In addition, recipients should be aware that several other FTA requirements can be met through the coordinated planning process. For example, Section 5307(b)(5) requires that recipients ensure that the POP assisted under Section 5307 provides for the coordination of public transportation with transportation services assisted from other U.S. government sources. Additionally, the metropolitan planning requirements under Section 5303(g)(3)(B)(ii) require that recipients conduct planning in coordination with non-DOT funded nonemergency transportation services.

Public transit systems in UZAs where a recipient is applying for funds under Section 5310 are required to participate in the coordinated public transit-human services transportation planning process.

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

The local coordinated planning process may also include consideration of the intercity bus transportation needs of the targeted population of seniors and individuals with disabilities. Identifying unmet intercity mobility needs of human service agency clients during the local coordinated planning process may help the State with its intercity bus needs assessment as described in Formula Grants for Rural Areas: Program Guidance and Application Instructions (Circular 9040.1F). FTA encourages States to include intercity bus mobility needs in the coordinated planning process for Section 5311. Although intercity bus service other than commuter service is not eligible under Section 5307, the needs for intermodal connectivity and urban/rural connections for the targeted populations may be a relevant factor in the coordinated planning process for UZAs.

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

FTA Circular 9070.1H provides more detailed guidance on the requirements for the Section 5310 program and the locally developed, coordinated public-transit human services transportation plans.

8. AVAILABILITY OF FHWA “FLEXIBLE FUNDS” FOR TRANSIT PROJECTS.
  - a. Authority. Some funds appropriated to FHWA can be used to support transit projects, and some funds appropriated to FTA can be used to support highway projects. These “flexible” or “flex” funds may be transferred, under the authority provided 23 U.S.C. 104(f) and 49 U.S.C. 5334(i), between FHWA and FTA for eligible highway or transit projects, respectively. Flexible funding authority facilitates a multimodal approach to meeting transportation needs at both the statewide and local levels by giving the local area the option of choosing which Federal surface transportation funds to use for a particular project or activity based on local planning priorities, and which Federal agency

will administer the funds. Flexible funds may only be used for activities eligible under both the transferring and receiving programs. Flexible funds transferred to FTA are administered under applicable FTA program requirements. Funding transfers are permitted only for projects contained in an approved metropolitan TIP and STIP. In addition, like all other funds available under Sections 5307, 5301, 5311, and 5339, flex funds should only be used toward projects and activities identified in the final POP.

- b. Share Requirements. Pursuant to 23 U.S.C. 104(f)(1)(B) and 49 U.S.C. 5334(i)(2), flexible funds transferred to FTA require the same non-Federal matching share that such funds would require if administered by FHWA. For example, Surface Transportation Block Grant Program (STBG) funds (23 U.S.C. 133) are not covered by Section 5323(i)(1)(A), which allows for an 85 percent Federal share of the net project cost of vehicle acquisitions for purposes of complying with the ADA or Clean Air Act. The law requires that the FHWA Federal share requirements apply to STBG funds that are transferred to FTA to administer. In some cases, the Federal share of FHWA funds flexed to FTA may be subject to the upward sliding scale adjustment for States containing Federal and nontaxable Indian lands (23 U.S.C. 120(a-b)).
- c. Use. FHWA funds that are authorized for transit projects may be transferred to FTA and used for eligible public transportation purposes, which may include planning activities, capital projects and activities, and operating expenses, subject to the eligibility limitations and cost share limitations of the transferring program's funds. FHWA flexible funds that are transferred to FTA are administered and managed under the applicable FTA program requirements. However, to facilitate project delivery, public transportation and public transportation-related projects eligible for funding under FHWA's programs may be administered by FHWA, rather than transferring the funds to FTA. When a project is eligible for flexible funding, the recipient should base its decision to have funds administered by FHWA or FTA on the nature of the project, the agencies involved in implementation, and the recipient's preference to follow either FHWA or FTA administrative procedures and requirements. Regardless of which agency administers the funding, all transit projects are subject to the transit employee protection requirements at 49 U.S.C. 5333.

Although flexible funds transferred to FTA are administered under the applicable FTA program requirements, flex funds may only be used for the purposes for which they were originally authorized. For example, Surface Transportation Block Grant Program (STBG) funds are not authorized to be used for transit operating expenses and, therefore, may not be used for operating assistance on public transportation projects once transferred to an FTA recipient of Section 5307, 5310, or 5311 funds, even though, in some instances, operating assistance is an eligible use of funds under these programs. However, certain public information and promotion expenses for vanpool programs, which are normally considered operating expenses by FTA, are permitted under STBG and may be undertaken using flex funds. In addition, CMAQ funds may be used for operating assistance under certain circumstances as indicated under Section (g)(3) below.

- d. Period of Availability. Flex funds transferred to FTA begin their period of availability at the time they are flexed to FTA and take on the period of availability of the FTA funding

program to which they are transferred. For example, if funding is flexed to FTA's Urbanized Area Formula Program (Section 5307), in FY 2023, these funds would be available for obligation for the year they were flexed plus five additional years, through September 30, 2028.

- e. Transfer to FHWA. Funds made available under Section 5311(c)(3) may be transferred to FHWA for an eligible highway project. Section 5303 Metropolitan Planning and Section 5304 Statewide Planning funds may be transferred to FHWA for eligible planning activities. Section 5307, 5337, and 5339 funds are not eligible to be transferred to highway projects.
- f. Planning. FHWA funds authorized for the following programs may be transferred to FTA and used for authorized planning purposes under Section 5307:
  - (1) Metropolitan Transportation Planning, 23 U.S.C. 134; and
  - (2) Statewide and Nonmetropolitan Transportation Planning, 23 U.S.C. 135.
- g. Planning Projects, Capital Projects, and Operating Expenses. Under 23 U.S.C. 104(f), FHWA funds authorized for the following programs may be transferred to a recipient of 5307 funds and used for public transportation planning, capital projects and activities, and operating expenses, if originally eligible for those purposes:
  - (1) Surface Transportation Block Grant Program (STBG), 23 U.S.C. 133;
  - (2) National Highway Performance Program (NHPP), 23 U.S.C. 119;
  - (3) Congestion Mitigation and Air Quality Improvement Program (CMAQ), 23 U.S.C. 149;
  - (4) Transportation Alternatives (TA), 23 U.S.C. 133(h);
  - (5) Carbon Reduction, 23 U.S.C. 175.
  - (6) PROTECT, 23 U.S.C. 176.
- h. Congestion Mitigation and Air Quality (CMAQ) Improvement Program, 23 U.S.C. 149. States can use CMAQ funds apportioned under 23 U.S.C. 104(b)(4) for public transportation or highway projects that are likely to result in emissions reductions.
  - (1) Eligible projects. Eligible CMAQ activities may include: public transportation vehicle acquisitions; construction of new facilities or improvements to facilities that increase transit capacity; and mobility improvements resulting from the provision of transit traveler information.
  - (2) Federal share. The Federal share for CMAQ funds is governed by 23 U.S.C. 120. It is generally 80 percent, subject to the upward sliding scale adjustment for States containing public lands. Certain specified types of projects, mostly targeting safety

improvements, that include an air quality or congestion relief component (e.g., carpool/vanpool projects), as provided in 23 U.S.C. 120(c)(1), may have a Federal share of 100 percent, but this provision is limited to 10 percent of the total funds apportioned to a State under 23 U.S.C. 104.

- (3) Operating Assistance. Section 149(m) of Title 23, U.S.C., authorizes States to obligate funds apportioned under 23 U.S.C. 104(b)(4) for public transportation operating costs. Further, funds apportioned under 23 U.S.C. 104(b)(4) that are used for operating assistance shall have no limit on the duration of operations assisted in non-UZAs and in UZAs with a population of 200,000 or less. In July 2014, FHWA published revised interim guidance on CMAQ operating assistance that is available on [FHWA's website](#). With the noted exception to time limitations in non-UZAs and in UZAs with a population of 200,000 or less, this guidance is controlling until such time as FHWA issues updated guidance.

9. ASSOCIATED TRANSIT IMPROVEMENTS REPORTING REQUIREMENTS. 49 U.S.C. 5307(c)(1)(K) requires that recipients operating within a UZA with a population of at least 200,000, must submit an annual report to FTA listing the Section 5307-funded projects, or elements thereof, and funding ATI (as defined by Section 5302) from the previous fiscal year. These recipients must submit an annual list of projects, but because the required information is captured in TrAMS during the application process, FTA does not require a separate report.

10. PUBLIC TRANSPORTATION SECURITY PROJECTS. Under 49 U.S.C. 5307(c)(1)(J), in each UZA to which funds are apportioned under Section 5307, Designated Recipients must certify that either:

- a. Designated Recipients in the UZA will collectively use at least 1 percent of the amount of Section 5307 funds apportioned to the UZA under 49 U.S.C. 5336 for a fiscal year on “public transportation security projects;” or
- b. Designated Recipients have decided that such expenditures for security projects are unnecessary.

Some security projects may also satisfy the separate requirement that each recipient in a UZA of 200,000 people or more use 0.75 percent of Section 5307 funds on safety projects.

11. TRANSIT ASSET MANAGEMENT REQUIREMENTS.

- a. Introduction. The Transit Asset Management (TAM) requirements assist the nation’s transit systems in assessing their capital needs and prioritizing capital investments to achieve a state of good repair. The TAM provisions are codified at 49 U.S.C. 5326 and are applicable to all FTA recipients. The rule implementing the National TAM System can be found in 49 CFR Part 625.

The National TAM System has five elements:

- (1) The term state of good repair (SGR) is defined as the condition in which a capital asset is able to operate at a full level of performance, which is measured through objective standards as detailed at 49 CFR 625.41;
  - (2) The establishment of performance measures are based on these SGR standards, and each FTA grant recipient must annually set targets based on these measures (49 CFR Part 625 Subpart D);
  - (3) Each FTA recipient and subrecipient must develop a TAM plan or participate in a group TAM plan that includes an asset inventory with condition assessments and an investment prioritization (49 CFR 625.25 and 625.33);
  - (4) Asset inventories, condition assessments, and performance targets must be reported to FTA (49 CFR Part 625 Subpart E); and
  - (5) FTA provides technical assistance to those affected by these requirements, including analytical processes or decision support tools that allow recipients to estimate capital investment needs over time and assist recipients with asset investment prioritization (49 U.S.C. 5326(b)(4) and (5)).
- b. TAM Plan Requirements. FTA's implementing regulations for development of TAM plans at 49 CFR Subpart C define two tiers of public transportation providers that determine whether providers must develop their own TAM plan or participate in a group TAM plan, as well as the required contents of their respective TAM plans.
- (1) Tier I providers, which are those that operate rail public transportation service, those that operate more than 100 vehicles across all fixed-route modes, or those that operate more than 100 vehicles in one non-fixed-route mode, must develop and carry out their own TAM plan that includes each element listed under 49 CFR 625.25(b).
  - (2) Tier II providers, which are recipients that do not meet any of the criteria for Tier I, must either develop their own TAM plan or participate in a group TAM plan that includes each element listed under 49 CFR 625.25(b)(1) through (4).

For more information on the recipient responsibilities for developing required TAM plans, see 49 CFR 625 Subpart C or FTA's TAM plan [web page](#).

- c. Planning Requirements. The goals, objectives, measures, and performance targets developed by recipients pursuant to TAM requirements must be integrated into statewide and metropolitan planning processes (49 U.S.C. 5303(h)(2)(D) and 5304(d)(2)(C)).
- d. State of Good Repair Formula Grant Programs Applicability. While all FTA recipients are required to develop or participate in a TAM plan, the State of Good Repair Grants Program (Section 5337) requires that all projects funded by the program be included in the TAM plans of the respective recipients. Additionally, recipients will be required to certify that they have implemented the TAM plans according to FTA's final implementing rule at 49 CFR Part 625. This applies to both formula and discretionary

competitive grants funded under 49 U.S.C. 5337. Recipients are not required to include projects funded by Sections 5307 or 5339(a) in their TAM plans, but may include those projects in their TAM plans.

## 12. PUBLIC TRANSPORTATION SAFETY REQUIREMENTS.

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

The IIJA instituted additional requirements for the NSP, including:

- (1) Safety performance measures for recipients of Section 5307 funds that serve a UZA with a population of 200,000 or more, including measures related to the recipient’s risk reduction program;
  - (2) That the establishment of minimum safety performance standards for public transportation vehicles take into consideration innovations in driver assistance technologies and driver protection infrastructure, where appropriate, and a reduction in visibility impairments that contribute to pedestrian fatalities;
  - (3) In consultation with the U.S. Department of Health and Human Services, precautionary and reactive actions required to ensure public and personnel safety and health during an emergency; and
  - (4) Consideration, where appropriate, of performance-based and risk-based methodologies.
- b. Public Transportation Safety Certification Training Program. Section 5329(c) requires FTA to establish a Public Transportation Safety Certification Training Program (PTSCTP). The PTSCTP rule is set forth at 49 CFR Part 672. This program applies to Federal and State personnel and contractors who conduct safety audits and examinations of rail Fixed Guideway public transportation systems, and designated personnel and contractors who are directly responsible for safety oversight of a recipient’s rail Fixed Guideway public transportation system.
- c. State Safety Oversight Program (Rail). Section 5329(e) requires States with rail Fixed Guideway systems to establish State Safety Oversight (SSO) programs and submit them to FTA for certification. The SSO rule is set forth at 49 CFR Part 674.



In addition, 49 U.S.C. 5329(d) requires public transportation agencies to establish comprehensive Agency Safety Plans (ASPs) for their public transportation operations. The Public Transportation Agency Safety Plan (PTASP) rule is set forth at 49 CFR Part 673.

- d. Public Transportation Agency Safety Plans. Per 49 U.S.C. 5329(d) and 49 CFR Part 673, recipients of Section 5307 funds and rail transit agencies must certify that the recipient or State has established a comprehensive ASP that minimally includes:
- (1) Methods for identifying and evaluating safety risks throughout all elements of the public transportation system of the recipient;
  - (2) Strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions, and, consistent with guidelines of the Centers for Disease Control and Prevention or a State health authority, minimize exposure to infectious diseases;
  - (3) A process and timeline for conducting an annual review and update of the safety plan of the recipient;
  - (4) Performance targets based on safety performance criteria and state of good repair standards established by the NSP, or in the case of a Section 5307 recipient serving a UZA with a population of 200,000 or more, safety performance measures established under the NSP;
  - (5) Assignment of an adequately trained safety officer who reports directly to the general manager, President, or equivalent officer of the recipient;
  - (6) A comprehensive staff training program for the operations personnel and personnel directly responsible for safety of the recipient that includes completion of a safety training program, continuing safety education and training, and additionally, in the case of a recipient receiving assistance under Section 5307 that is serving a UZA with a population of 200,000 or more, de-escalation training;
  - (7) In the case of a recipient receiving assistance under Section 5307 that is serving a UZA with a population of 200,000 or more, a risk reduction program for transit operations to improve safety by reducing the number and rates of accidents, injuries, and assaults on transit workers (as defined in 49 U.S.C. 5302);
  - (8) A requirement that the board of directors (or equivalent entity) of the recipient approve, or, in the case of a recipient receiving assistance under Section 5307 that is serving a UZA with a population of 200,000 or more, an established safety committee of the entity, followed by the board of directors (or equivalent entity) of the recipient, approve the ASP and any updates to the ASP; and
  - (9) For each recipient serving a UZA with a population of fewer than 200,000, a requirement that the ASP be developed in cooperation with frontline employee representatives.



(10) In addition to the above, the safety committee of a recipient receiving assistance under Section 5307 that is serving a UZA with a population of 200,000 or more shall establish performance targets for the risk reduction program using a three-year rolling average of the data submitted by the recipient to the NTD. More detailed information on FTA's public transportation safety program requirements will be available on FTA's PTASP [web page](#).

- e. Minimum Safety-Related Expenditure. Recipients of Section 5307 funds that serve UZAs with a population of 200,000 or more, and that are subject to the PTASP requirements, must use not less than 0.75 percent of their Section 5307 funds for safety-related projects (49 U.S.C. 5329(d)). Unlike the requirement that Designated Recipients of UZAs set aside at least 1 percent of their Section 5307 funds for security-related projects unless they certify that funds are not needed for that purpose, there are no exemptions from this requirement via certification. Further, the 0.75 percent minimum expenditure requirement for safety-related projects applies to each recipient and grant application within a UZA and cannot be satisfied as a total expenditure for the UZA as a whole. In their grant applications, recipients should provide a short narrative noting how the requirement is satisfied. This requirement is effective for grants obligated on or after October 1, 2021, regardless of year of apportionment. However, this requirement does not apply to individual subrecipients. If a grant includes multiple sub-recipients, this requirement may be met collectively for the grant as a whole.

For the purposes of complying with this requirement, safety should be viewed as a goal. Accordingly, transit agencies may identify a wide variety of expenses as being safety related. Some safety expenditures may be used to support a UZA's 1 percent minimum expenditure requirement for security-related projects. Recipients may satisfy the minimum 0.75 percent expenditure requirement through planning, capital, or operating activities, provided the recipient is otherwise eligible to expend Section 5307 funds on operating expenses.

A recipient receiving assistance under Section 5307 that is serving a UZA with a population of 200,000 or more that does not meet the risk reduction program performance targets established by the safety committee shall allocate the 0.75 percent available in the following fiscal year to projects that are reasonably likely to assist the recipient in meeting the performance targets, including modifications to rolling stock and de-escalation training.

13. MAJOR CAPITAL PROJECTS. Projects funded under 49 U.S.C. Chapter 53, including the programs covered by this circular, may be subject to FTA's Project Management Oversight requirements, 49 U.S.C. 5327, applicable to major capital projects. FTA's definition of a major capital project is set by regulation (49 CFR Part 633) and is discussed in Chapter V of this circular.

If a project is identified as a major capital project, the applicant must carry out a Project Management Plan (PMP) and must apply value engineering techniques to the project. The elements of a PMP appear in 49 U.S.C. 5327(a). FTA's related regulations, including the requirements of a PMP, are set forth at 49 CFR Part 633. The applicant must submit the

PMP in time for FTA to review the applicant's plan in conjunction with its applicable grant application. Within sixty days of receiving the PMP, FTA will determine whether to approve or disapprove the plan, or FTA will notify the grant applicant that it was unable to complete the review. If FTA disapproves a PMP, FTA will provide its reasons for disapproval to the applicant.

14. UNDERTAKING PROJECTS IN ADVANCE. There are three different types of authority under Sections 5307, 5337, and 5339(a) in which a recipient may incur costs on a project (e.g., award a contract or begin work) before grant approval and retain eligibility for reimbursement after approval. The first is automatic pre-award authority, which FTA typically authorizes in each of its fiscal year apportionment notices. A Letter of No Prejudice (LONP) is a second type of authority, and a third is Advance Construction Authority (ACA). When using pre-award authority, a recipient must comply with all FTA and Federal requirements prior to undertaking the project, including Federal planning requirements, in order to retain eligibility for reimbursement after approval.

- a. Automatic Pre-Award Authority. Pre-award authority is granted in a Federal Register notice. FTA's Notice of FTA Transit Program Changes, Authorized Funding Levels and Implementation of the Infrastructure Investment and Jobs Act; and FTA FY 2022 Apportionments, Allocations, Program Information and Interim Guidance, as corrected, (87 FR 41858, July 13, 2022) provides pre-award authority through the authorization period of IJJA (October 1, 2021 through September 30, 2026) for capital assistance under all formula programs if specified conditions are met and for planning and operating assistance under the formula programs without regard to the period of the authorization. Previous notices provided pre-award authority applicable through September 30, 2021. FTA may provide additional clarification or extension beyond the authorization period via the Annual Apportionment Notice, which is published each year in the Federal Register. FTA does not impose additional conditions on pre-award authority for eligible operating, planning, or administrative assistance under the Section 5307 grant program. FTA provides automatic pre-award authority for planning and operating assistance under Section 5307 without regard to the period of the authorization. Following authorization of formula grant funds under Sections 5307, 5337, and 5339(a), automatic pre-award authority for 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 issuing a combined Environmental Impact Statement (EIS)/Record of Decision (ROD), a final EIS and ROD, a Finding of No Significant Impact (FONSI), or a determination that the project qualifies as a Categorical Exclusion (CE). Recipients may incur costs under pre-award authority for projects that clearly meet the criteria for a c-list CE (23 CFR 771.118(c)); however, if a project is subsequently found not to qualify as a c-list CE, it will be ineligible for FTA assistance.

A project must also be included in the STIP prior to incurring expenses under pre-award authority. If an applicant is concerned that a project may not clearly qualify as a c-list CE, they are strongly encouraged to contact FTA's Regional Office for assistance in determining the appropriate environmental review process and level of documentation necessary.

The recipient assumes all risk and is responsible for ensuring that all applicable Federal program and requirements are met to retain eligibility. Therefore, 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 before incurring expenses under automatic pre-award authority with the hope of future reimbursement.

- b. Letter of No Prejudice. For a project not covered by the automatic pre-award authority, including projects that will require Section 5307, 5337, or 5339(a) formula grant funds not yet authorized by a Federal transportation funding authorization and for which FTA has not extended pre-award authority, an applicant that seeks to proceed with a transit project in advance of the availability of Federal funds may request that FTA issue an LONP for that project. An LONP allows a recipient to incur costs on a project using non-Federal resources with the understanding that the costs incurred after the LONP is issued may be reimbursed for eligible expenses or eligible for credit toward the local match should FTA approve the project for a grant at a later date.

The recipient assumes all risk and is responsible for ensuring that all applicable Federal program and grant requirements are met to retain eligibility. Because project implementation activities may not be initiated prior to NEPA (42 U.S.C. 4321) completion, FTA will not issue an LONP for such activities until the NEPA process has been completed with a combined final EIS/ROD, final EIS and ROD, FONSI, or CE determination. The project must be in a STIP before an LONP is issued.

Although FTA typically grants automatic pre-award authority for formula grant funds as discussed in subparagraph (a) under this section, an LONP is required if a recipient wishes to continue to incur costs after the life of the program's authorization. Each LONP has an expiration date, which is the date beyond which funding cannot be requested retroactively for the project. The standard expiration date of an LONP is five years, after which time the recipient may request a new LONP. In situations such as long-term leases or long-term financing, the LONP may be for an appropriately longer time period.

To obtain an LONP, a recipient must submit a written request accompanied by adequate information and justification to the appropriate FTA Regional Office. FTA approval of an LONP is made in writing and determined on a case-by-case basis.

- c. Advance Construction Authority. The statutory authority to undertake projects in advance, also referred to as ACA, allows recipients to incur certain project costs before grant approval and retain their eligibility for subsequent reimbursement after approval. ACA is slightly different from the policy-driven automatic pre-award authority and LONP, which are discussed in subparagraphs (a) and (b) under this section. Under ACA, FTA has already approved the project for funding in the event funding becomes available. Under automatic pre-award authority or an LONP, FTA has not yet approved the project for funding.

ACA permits an applicant to incur project and financing costs such as bond interest before FTA awards funds for the project. FTA may issue ACA for projects funded under Sections 5307, 5337, or 5339(a), provided:

- (1) The recipient has completed an application and it is on file with FTA;
- (2) The project has met all Federal requirements, including the DOL certification under Section 5333(b); and
- (3) FTA has approved the project as eligible for the applicable formula funds, although the funding is not available.

Although ACA is issued for a project FTA has already approved, ACA does not constitute a commitment of Federal funds until the project is converted to a regularly financed project. ACA expires on or before the expiration of the current Federal transportation funding authorization.

- d. Terms and Conditions Applicable to Automatic Pre-Award Authority, LONP, and ACA. In general, the terms, conditions, and procedures applicable to recipients having automatic pre-award authority, an LONP, or ACA are as follows:

- (1) All Federal grant requirements must be met at the appropriate time for a project having automatic pre-award authority, an LONP, or ACA to remain eligible for Federal funding.
- (2) These types of authority are not a legal or implied commitment that the project(s) will be approved for FTA assistance (except in the case of ACA) or that FTA will obligate Federal funds.
- (3) These types of authority are not a legal or an implied commitment that all items undertaken by the applicant will be eligible for inclusion in the project(s).
- (4) The recipient assumes all the risk.
- (5) All FTA statutory, procedural, and contractual requirements must be met.
- (6) All applicable DOT statutory and regulatory requirements must be met.
- (7) The recipient must not take any action that prejudices the legal and administrative findings that the FTA administrator must make in order to approve a project.
- (8) Local funds expended by the recipient after the date of the automatic pre-award authority, an LONP, or ACA will be eligible for credit toward local match or reimbursement if FTA later makes a grant for the project(s) or project amendment(s).
- (9) Local funds expended by the recipient before the date of the authority will not be eligible for credit toward local match or reimbursement.

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- (10) 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. Additional information on pre-award authority and related issues is contained in FTA Circular 5010.1F.

**CHAPTER VI:****PROGRAM MANAGEMENT AND ADMINISTRATIVE REQUIREMENTS**

1. **INTRODUCTION.** The prior chapters of this circular generally address requirements and necessary practices for recipients of Section 5307, 5337, and 5339(a) funds to provide the information needed for recipients to be able to take advantage of these formula grant programs available to urbanized areas. Such topics included, but were not limited to, receiving and suballocating apportionments, recipient and subrecipient eligibility, other USDOT grant programs that may be available to support recipients' proposed activities, State and local matching requirements, flexibility of use of funds, eligible activities and special requirements for various project types, and planning and public participation requirements. The guidance provided for these topics is commonly referred to as "pre-award" guidance.

Once applicable funds have been made available and a recipient is ready to submit one or more applications for eligible activities, there are a number of award management and "post-award" requirements that must be met for a recipient to receive a grant and for funds to be disbursed to the recipient. This chapter focuses on many of those requirements and provides references to other resources that can be consulted for further information.

2. **CERTIFICATIONS REQUIRED FOR FORMULA GRANT PROGRAMS IN URBANIZED AREAS.** FTA recipients must annually certify that they are in compliance with Federal transit law as well as Federal crosscutting requirements. FTA advises recipients to review the annual list of Certifications and Assurances, located on [FTA's website](#) and on the TrAMS [website](#). Section 5307(c)(1) lists the conditions to which Section 5307 recipients (and by extension, Section 5339(a) recipients) must certify. Many of the same conditions of certification are also applicable to Section 5337. Included below is a listing, and general information, about each condition of certification applicable to urbanized area formula grant programs. Please consult FTA Circular 5010.1F for FTA's governing guidance regarding these topics.

A recipient of formula grant funds in urbanized areas must certify that they have or will have the legal, financial, and technical capacity to carry out the program. New recipients must also certify to additional conditions that tie to specific activities or programs. New recipients must submit documentation of the necessary capacity prior to receiving a grant under Sections 5307, 5337, or 5339(a). Pre-existing recipients that have previously demonstrated the necessary capacity must continue to certify to these and any additional applicable conditions annually.

- a. **Legal Capacity.** Before award, the applicant must certify that they have or will have the legal capacity to carry out the project. Specifically, an applicant for Section 5307, 5337, or 5339(a) funds must be eligible and authorized under State or local law to request, receive, and spend FTA funds to administer FTA-assisted projects. Officials acting on behalf of the applicant must have appropriate authority designated by State or local law or by the governing body of the applicant. Although FTA does not require recipients to submit an Opinion of Counsel with each grant application, first-time applicants are

required to submit an Opinion of Counsel as described in FTA's Circular 5010.1F. FTA also retains the discretion to require any recipient to submit a legal opinion and other supporting documentation.

- b. Financial Capacity. Before award, the applicant must certify that they have or will have the financial capacity to carry out the project. Specifically, an applicant for Section 5307, 5337, or 5339(a) funds must be able to match and manage those funds, to cover cost overruns, to cover operating deficits through long-term stable and reliable sources of revenue, and to maintain and operate federally funded facilities and equipment. Financial capacity and proposed project financing must be made evident. The source of local share must be identified, and assurances must be provided that adequate local funds will be available at the time Federal funds are drawn down. Financial capacity is also reviewed by FTA's Financial Management Oversight contractors as deemed necessary.
- c. Technical Capacity. Before award, the applicant of Section 5307, 5337, or 5339(a) funds must certify that they have or will have the technical capacity to carry out the project. Technical capacity involves the capability of the applicant to properly carry out and manage Federal grants. In addition to the applicant's certification, FTA may consider its experience with the applicant. A first-time applicant must demonstrate that it can carry out the project described in the grant application in accordance with the requirements of the grant agreement, and with all applicable laws and regulations, using sound management practices. Guidelines for award management practices can be found in FTA Circular 5010.1F.
- d. Satisfactory Continuing Control. A recipient of Section 5307, 5337, or 5339(a) funds must annually certify that it "has or will have satisfactory continuing control over the use of equipment and facilities" through operation, lease, or otherwise. An FTA recipient must maintain control over federally funded property by ensuring that it uses the property in public transportation service and disposes of it according to Federal requirements. If the recipient leases federally funded property to another party, the lease must provide that the recipient maintains satisfactory continuing control over the use of that property. Recipients must take care that federally-funded assets are not used impermissible for charter service, sightseeing service, or other prohibited activities.
- e. Maintenance of Equipment and Facilities. A recipient of Section 5307, 5337, or 5339(a) funds must certify that it will maintain its federally assisted facilities and equipment in accordance with its TAM plan. The recipient must keep equipment and facilities acquired with Federal assistance in good operating order. More information on TAM requirements is provided in Chapter V of this circular or on FTA's [Transit Asset Management website](#).
- f. Fares Charged to Seniors and Persons with Disabilities during Nonpeak Hours. A recipient must certify that the fares charged to seniors, individuals with disabilities, or individuals presenting a Medicare card during nonpeak hours, for transportation service that uses or involves a facility or equipment of a project financed under Section 5307 or 5339(a), are not more than 50 percent of the peak-hour fare, regardless of whether the



service is provided by the recipient or by another entity under contract, lease, or other arrangement.

- (1) Applicability to Services Provided. This requirement applies only to fixed-route service, including fixed-route services and non-charter services to special events that operate in both peak and off-peak hours, any express or commuter services that operate beyond peak hours, fixed-route services for which the recipient has not defined peak hours, and fixed-route services that operate with reduced fares during both peak and off-peak periods. This requirement is not applicable to demand responsive services, services that operate only during peak hours, services that operate only in the off-peak hours, or services funded with other FTA assistance that do not use Section 5307 or 5339(a)-funded equipment or are not operated out of Section 5307 or 5339(a)-funded facilities.
  - (2) Peak vs. Off-Peak Service. For the purposes of administering this requirement, if a recipient determines it is not large enough, or that demand is not strong enough, to identify or justify a difference between peak-hour and nonpeak service, then its entire service should be defined as nonpeak. In this instance, the recipient in question has a couple of options: (1) Review ridership data and determine the system's peak ridership hours and develop a policy for half-fare; or (2) Choose not to determine a peak period, and consider all operational time "non-peak" and therefore, seniors, individuals with disabilities, or individuals presenting a Medicare card are entitled to the half fare at all operational times.
  - (3) Applicability to Fare Structures. Recipients are only required to offer a half fare on the single-trip base fare when paid in cash or using media that pay the fare of the single trip (smart cards, apps). Recipients are not required to offer half-fare versions of multi-trip passes and other multi-trip fare media.
  - (4) Medicare Card Eligibility. Because a Medicare card does not constitute proof of an individual's identity, it is reasonable for a transit agency to request confirmation of the individual's identity, either through secondary photo identification or by using a photographic identification card issued by the transit agency. It is also reasonable for a transit agency to verify the validity of the Medicare card being presented, and in facilitating the application process for half-fare eligibility, a transit agency may request that the applicant validate the status of the card at the time the half-fare application is presented.
- g. Use of Competitive Procurements. A recipient of Section 5307, 5337, and 5339(a) funds must follow procurement requirements specified under 49 U.S.C. 5323 and 49 U.S.C. 5325. This includes the requirements that recipients use a competitive procurement process, comply with applicable Buy America laws, and not use a procurement that follows exclusionary or discriminatory specifications. Third Party Contracting Guidance (Circular 4220.1F) sets forth the requirements and procedures applicable to third-party contracts. A third-party contract refers to any purchase order or contract awarded by a recipient to a vendor or contractor using Federal financial assistance awarded by FTA.

[FTA's Best Practices Procurement and Lessons Learned Manual](#) provides another useful source of procurement information.

- h. Domestic Preference for U.S. Property – Buy America. As part of its certification to comply with Section 5323, a grant applicant for Section 5307, 5337, or 5339(a) funds certifies that it will comply with Buy America as set forth under 49 U.S.C. 5323(j) in carrying out a procurement. FTA's Buy America requirements apply to all third-party procurements funded by FTA. FTA strongly recommends that the recipient review FTA's Buy America regulations before undertaking any procurement to ensure compliance with the requirements applicable at the time the recipient will undertake the procurement. Additional information is available on the [FTA Buy America website](#).
- i. Public Participation. A recipient of Section 5307 or 5339(a) funds must certify that it has complied with the public participation requirements of 49 U.S.C. 5307(b). Chapter V, Section 6, "Program of Projects and Public Participation Requirements," of this circular discusses this requirement.
- j. Availability of Local Funds. A recipient of Section 5307, 5337, or 5339(a) funds must certify that the required local funds are available to carry out the project. See Chapter III of this circular for additional information on local share.
- k. Compliance with Planning Requirements. A recipient requesting Section 5307, 5337, or 5339(a) program assistance must certify that it will comply with the planning requirements of 49 U.S.C. 5303–5306. Further detail on planning requirements may be found in Circular 8100.1C.
- l. Public Comment on Fare and Service Changes. Recipients of Section 5307 or 5339(a) funds must certify that they have a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation service.

The recipient is expected to have a written policy that describes the public comment process on increases in the basic fare structure and on major service reductions. The recipient is responsible for defining a major service reduction. The policy should provide an opportunity for a public hearing or public meeting for any fare increase or major service reduction and should describe how the recipient will conduct such meetings and how the recipient will consider the results of such meetings in the process of changing fares and service. A public meeting is not mandatory; however, the recipient must provide an opportunity for a public meeting in order to solicit comment. During a triennial review, the recipient should be able to provide evidence that public comments were considered. Guidance on this requirement is available in FTA Circular 4702.1B.

- m. Expenditure on Public Transportation Security Projects. Each Designated Recipient of Section 5307 program funds must certify that, of the amount apportioned to its UZA in a fiscal year, the recipients within the UZA will collectively expend at least 1 percent on "public transportation security projects," or have "decided that the expenditure for

security projects is not necessary.” This certification may also be provided by the MPO in coordination with eligible recipients in the UZA.

- n. Associated Transit Improvements (ATI) Report. In large UZAs (with populations of 200,000 or more), Section 5307 recipients must certify they will submit an annual report listing the projects carried out under Section 5307 that qualify as ATI during the previous fiscal year (**Note:** As the application contains much of the required reporting information, this list of projects assists in meeting legislative requirements).
3. CERTIFICATION PROCEDURES. Before FTA may award Federal funding, the applicant must provide FTA all Certifications and Assurances required by Federal laws and regulations. FTA publishes a list of these Certifications and Assurances annually on the [Certifications & Assurances web page](#) at the time of year FTA publishes the annual funding apportionment (49 U.S.C. 5323(n)), highlighting any changes or additions from the previous year. Refer to FTA Circular 5010.1F for more information on certification procedures.
4. FTA TRANSIT AWARD MANAGEMENT SYSTEM (TrAMS). TrAMS provides a streamlined electronic interface between applicants and FTA that allows complete electronic application submission, review, approval, and management of all grants. Among other things, applicants apply for funds, inquire about the status of grants, file the required Federal financial status and Milestone Progress Reports, and submit annual Certifications and Assurances in this system. A user guide for TrAMS is available on [FTA’s website](#).
5. ELECTRONIC CLEARING HOUSE OPERATION (ECHO) REQUIREMENTS. The Electronic Clearing House Operations (ECHO) system is an FTA web-based application that processes FTA recipients’ requests for payment. This system interfaces directly with TrAMS. Applicants are required to establish an ECHO Control Number (ECN) before FTA is able to disburse funds to the applicant/recipient. Department of the Treasury regulations, 31 CFR Part 205, govern payment to States for financing operations under Federal assistance and other programs. Payments to States may be subject to agreements between individual States and the Department of the Treasury. Federal payments to recipients other than States are described at 2 CFR 200.305. These regulations require that payment to a recipient be limited to the minimum amounts needed and timed so that they will be in unison only with the actual, immediate cash requirements of the recipient in carrying out the approved project. For further information regarding cash management procedures, refer to the [FTA ECHO Web User Manual](#).
6. NATIONAL TRANSIT DATABASE (NTD) REPORTING. The NTD was established by Congress to be the Nation’s primary source for information and statistics on the transit systems of the United States. NTD data are used to support numerous DOT programs and to “help meet the needs of individual public transportation systems, the United States Government, State and local governments, and the public for information on which to base public transportation service planning.” (49 U.S.C. 5335). Recipients, subrecipients, and beneficiaries of Section 5307 or 5339(a) program funds are required by statute to submit data to the NTD. Operators with an NTD reporting obligation must ensure that contractors provide them with the information necessary to complete an NTD report.

FTA's implementing regulation can be found at 49 CFR Part 630. A recipient of an FTA grant that is required to report to the NTD must provide a complete report to the NTD of all transit operations, regardless of whether those operations are funded in whole or in part by FTA. In addition, each recipient of FTA funding must report data on asset inventories and conditions to the NTD. Financial information reported to the NTD must be reported in accordance with the Uniform System of Accounts (USOA). The complete reporting requirements for the NTD, along with information on due dates, extensions, and waivers can be found in the current versions of the NTD reporting manuals. The NTD regulation, the USOA, and the most recent versions of the NTD reporting manuals can be found on the [NTD website](#).

7. ADDITIONAL REQUIREMENTS AND OTHER PROVISIONS. In addition to the aforementioned program-specific requirements covered in the previous chapters of this circular and earlier in this chapter, FTA recipients are held to a number of FTA-specific and other Federal laws and requirements. This chapter provides an alphabetical listing of those requirements and provides citations to the statutory or regulatory text, or references to applicable crosscutting FTA policy or guidance. This list is not exhaustive. Refer to FTA's Master Agreement for additional requirements.

- a. Charter Bus Services. Title 49 U.S.C. 5323(d) limits charter service provided by federally assisted public transportation operators. FTA regulations specify these limitations in 49 CFR Part 604.
- b. Civil Rights. Title 49 U.S.C. 5332 prohibits discrimination on the basis of race, color, religion, national origin, sex, disability, or age in a recipient's, subrecipient's, or third-party contractor's provision of public transportation service, and it prohibits discrimination in employment or business opportunity. Title 42 U.S.C. Chapter 126 prohibits discrimination on the basis of disability by public and private entities. Further, a number of additional applicable laws and regulations address nondiscrimination on the basis of disability. Additional information on compliance with nondiscrimination laws is available in the following FTA resources:

- (1) Americans with Disabilities Act (ADA) Guidance (FTA Circular 4710.1)
- (2) Environmental Justice Policy Guidance for FTA Recipients (FTA Circular 4703.1)
- (3) Equal Employment Opportunity (EEO) Requirements and Guidelines for FTA Recipients (FTA Circular 4704.1A)
- (4) Title VI Requirements and Guidelines for FTA Recipients (FTA Circular 4702.1B)

Additional applicable implementing regulations pertaining to various civil rights topics include:

- (1) Nondiscrimination on the Basis of Sex (49 CFR Part 25)
- (5) Nondiscrimination on the Basis of Age (45 CFR Part 90)

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- (6) Disadvantaged Business Enterprise (DBE) Provisions (49 CFR Part 26)
- (7) Americans with Disabilities Act (ADA) (49 CFR Parts 27, 37, 38, & 39)
- c. Clean Air Act (CAA). Under the CAA, the principal requirement with which FTA-funded projects must comply is the transportation conformity rule. The conformity requirements are contained in an Environmental Protection Agency (EPA) regulation (40 CFR Part 93), and they apply in nonattainment and maintenance areas only—areas that, either: (1) currently violate one or more of the National Ambient Air Quality Standards (nonattainment areas); or (2) once violated the standards but have since been redesignated to attainment status by EPA (maintenance areas).
- d. Commercial Driver's License (CDL). All drivers of motor vehicles designed or used to transport more than 15 passengers (including the driver), or of vehicles which have a gross combination weight rating of 26,001 pounds or more, must have a CDL. Mechanics that drive the vehicles must also have a CDL.
- e. Debarment and Suspension. Federal funds may not be provided to anyone who has been debarred, suspended, determined ineligible, or voluntarily excluded from participation in federally assisted transactions. Implementing regulations pertaining to nonprocurement debarment and suspension are located at 2 CFR Part 1200.
- f. Drug and Alcohol Testing. Recipients are required by 49 U.S.C. 5331 to establish drug and alcohol testing programs. Establishing a testing program is a condition of FTA funding. Implementing regulations addressing drug and alcohol programs are located at 49 CFR Part 655.
- g. Drug-Free Workplace. Each recipient of FTA funds is required to maintain a drug-free workplace for all employees and to have an antidrug policy and awareness program. Implementing regulations addressing drug-free workplace requirements are located at 49 CFR Part 32.
- h. Employee Political Activity. To the extent applicable, recipients of FTA funds are required to comply with the Hatch Act, 5 U.S.C. 1501–1508 and 7324–7326. The Hatch Act limits the political activities of State and local agencies and their officers and employees, whose principal employment activities are financed in whole or part with Federal funds including a Federal grant, cooperative agreement, or loan. Implementing regulations addressing employee political activity are located at 5 CFR Part 151. However, it is important to note that, in accordance with 49 U.S.C. 5323(1)(2) and 23 U.S.C. 142(g), the Hatch Act does not apply to a nonsupervisory employee of a public transportation system (or of other agencies or entities performing related functions) receiving FTA assistance to whom the Hatch Act would otherwise apply.
- i. Energy Conservation. FTA funding recipients must comply with applicable mandatory energy efficiency standards and policies of applicable State energy conservation plans issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6321 et seq. Implementing regulations addressing energy conservation are located at 49 CFR Part 622.

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- j. Environmental Reviews. All projects seeking FTA financial assistance require compliance with NEPA implementing regulations (40 CFR Part 1500–1508), FHWA and FTA’s Environmental Impact and Related Procedures (23 CFR Part 771), Efficient Environmental Reviews for Project Decision making and One Federal Decision (23 U.S.C. 139), and numerous other environmental laws, regulations, and orders such as Section 106 of the National Historic Preservation Act (36 CFR Part 800), the Clean Water Act, and the Endangered Species Act.
- k. Environmental Justice. Environmental justice includes incorporating environmental justice and nondiscrimination principles into transportation planning and decision-making processes as well as project-specific environmental reviews. Environmental Justice Policy Guidance for Federal Transit Administration Recipients (FTA Circular 4703.1) provides FTA recipients and subrecipients with guidance and instructions necessary to carry out EO 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.
- l. Intergovernmental Review. EO 12372, Intergovernmental Review of Federal Programs, and DOT implementing regulations, “Intergovernmental Review of Department of Transportation Programs and Activities” (49 CFR Part 17), require that an applicant applying for FTA funds comply with a State’s intergovernmental review process if such review process has been established in the applicable State(s).
- m. Labor Protections.
- (1) 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 and in accordance with the Davis-Bacon Act.
- (2) Transit Employee Protection. Per 49 U.S.C. 5333(b), the interests of employees affected by FTA assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable, and such arrangements must be certified by the Secretary of Labor as meeting the requirements of the law.
- n. Presidential Coin Act. In accordance with Pub. L. 109–145, beginning January 1, 2005, all transit systems that receive operational subsidies or any disbursement of funds from the Federal government shall be fully capable of accepting and dispensing \$1 coins and must display signs and notices denoting such capability on the premises where coins or currency are accepted or dispensed, including on each vending machine.
- o. Real Property Acquisition and Relocation Assistance. If an applicant intends to use Federal financial assistance in a project that will require the acquisition of real property, the applicant must provide assurances—required by the Uniform Relocation Assistance



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and Real Property Acquisition Policies Act of 1970 (Uniform Act), as amended (42 U.S.C. Chapter 61)—that it will comply with the Uniform Act and with DOT implementing regulations (49 CFR Part 24) and FTA Circular 5010.1F.

- p. 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. Implementing regulations addressing lobbying restrictions are located at 49 CFR Part 20. Further, 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.
- q. School Bus Transportation. Section 5323(f) of Title 49 U.S.C. prohibits the use of FTA funds for exclusive school bus transportation for school students and school personnel. However, the implementing regulations located at 49 CFR Part 605 permit recipients to modify regular public transportation service to accommodate school students along with the general public (“tripper service”).
- r. Seismic Design and Construction Standards. An applicant must assure FTA that any new building or addition to an existing building it designs and constructs with Federal assistance is compliant with seismic safety standards. Implementing regulations addressing seismic design and safety standards are located at 49 CFR Part 41.
- s. Sensitive Security Information. To the extent applicable, recipients must comply with 49 U.S.C. 40119(b) and implementing DOT regulations, “Protection of Sensitive Security Information,” 49 CFR Part 15, and with 49 U.S.C. 114(s) and implementing Department of Homeland Security, Transportation Security Administration regulations, “Protection of Sensitive Security Information,” 49 CFR Part 1520.





**APPENDIX A:****OPERATING ASSISTANCE PROJECTS (Section 5307)**

1. **APPENDIX CONTENTS.** For applicants eligible to receive Section 5307 operating assistance, the following paragraphs present budget information to help recipients determine which operating expenses are eligible for Federal funding. The discussion provides information on certain revenue and expense items relevant to operating assistance projects. For further assistance, the applicant should review the cost principles and standards discussed in 2 CFR Part 200.

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

2. **OPERATING EXPENSE WORKSHEET.** FTA provides an operating expense worksheet for applicants to determine the amounts of available Section 5307 funds that the applicant may actually request. The use of this worksheet ensures consistency in the manner FTA calculates operating expenses and provides an audit trail, which may have long-term benefits to the recipient. FTA does not require the applicant to submit this worksheet as part of its application; however, the applicant must maintain records to support charges to a project.

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

- a. **Eligible Operating Expenses.** Eligible operating expenses are limited to direct labor, material, and overhead expenses incurred on an accrual basis by an operator to provide public transportation service in the UZA, usually during the specified project time period. Expenses for contracted services directly incidental to the management and operation of transportation services and not otherwise reimbursed are also included. Include expenses incurred to provide human services transportation under contract.
- b. **Less Eliminations.** These are ineligible expenses, nonpublic transportation expenses, revenue/offset items (contra-expenses), and other exclusions. Ineligible expenses include such items as entertainment, fines and penalties, and charitable donations. Additionally, nonpublic transportation expenses such as charter, school bus, sightseeing, and maintenance of nontransit vehicles are ineligible expenses. Contra-expenses are revenue items that directly offset transit expenses and are therefore eliminated from total expenses. Common types of contra-expenses are earned interest, proceeds from the sale of equipment in excess of the depreciated value, cash discounts and refunds, insurance claims, and reimbursements which directly offset accrued liabilities.
- c. **Eligible Operating Expenses.** Eligible operating expenses are the remainder, when various categories of noneligible expenses are subtracted from total expenses. (Line 1 – Line 2 = Line 3.)

- d. Farebox Revenues and Revenues Applied to Eligible Expenses Not Includable as Local Share. Recipients must represent all funds used to cover eligible operating expenses in the worksheet. This line represents those revenues used to cover eligible expenses that recipients cannot include in “local share”—in other words, “nonmatchable” revenue. This category includes public transportation farebox revenues. (Line 4)
- e. Net Project Cost. This line represents the difference between Lines 3 and 4—that is, the amount of eligible operating expenses to be covered by the local and FTA shares. (Line 5)
- f. Local Share. Local share (that is, the share of project costs not financed by FTA) includes all local and State funds contributed to meeting net project cost. This includes cash from non-Federal sources other than revenue from providing public transportation services; revenues from the sale of advertising and concessions; and amounts received under a service agreement with a State or local social service agency or private social service agency. Only those funds actually applied to eligible operating expenses incurred on an accrual basis in providing public transportation services during the project period may be considered local match. (Line 6)
- g. Net Expenses Before Applying FTA Funds. This amount represents the difference between “net project cost” and “local share,” and it should represent the amount of eligible operating expenses not otherwise covered by public transportation revenues or local share funds. (Line 7)
- h. Maximum FTA Share. This is the amount determined to be the maximum FTA share, based on the worksheet. The FTA share can be up to 50 percent of the net project cost. If the local share is less than or equal to 50 percent of net project cost, FTA can match it dollar-for-dollar with FTA operating assistance, subject to the availability of Section 5307 funds, local programming of projects, and the eligibility of operating expenses. If the local share is greater than 50 percent of net project cost, FTA operating assistance will cover only the amount in Line 7, “net expenses before applying FTA funds.” (Line 8)

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

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

The applicant should also retain appropriate documentation in support of the worksheet to demonstrate the proper allocation of revenues to nonoperating expenses, the availability of local share funds, and any other reconciliations that may be necessary to clarify

estimates or projections of financial conditions during the project time period. FTA does not require certifications of worksheets based on estimates or projections.

When preparing the worksheets, applicants should itemize entries under each revenue and expense category. Applicants may, of course, expand the number of lines provided in the attached format whenever necessary to accommodate additional entries. It is particularly important that the itemization of revenues and expenses is sufficient to permit verification of calculations of eligible operating expenses, net project cost, local share and eligible FTA assistance during any subsequent audit pursuant to 49 U.S.C. 5307 and the Single Audit requirements included in 2 CFR Part 200 Subpart F.

<b>SAMPLE OPERATING EXPENSE WORKSHEET</b>	
For the Period:	
Public Transportation Operator(s):	
Applicant:	
Designated Recipient:	
(A) Total Operating Expenses (Itemize)	
Item	Cost
	\$
	\$
	\$
<b>Total Operating Expenses</b>	<b>\$ (Line 1)</b>
(B) Less Eliminations (Less Ineligible Expenses (Itemize))	
Item	Cost
	\$
	\$
	\$
<b>Less Eliminations (Less Nonpublic Transportation Expenses (Itemize))</b>	
Item	Cost
	\$
	\$
	\$
<b>Less Eliminations (Less Revenue/Offset Items, Contra-Expenses (Itemize))</b>	
Item	Cost
	\$
	\$
	\$

<b>Less Eliminations (Less Other Exclusions (Itemize) (e.g., costs already attributed to preventive maintenance))</b>	
<b>Item</b>	<b>Cost</b>
	\$
	\$
	\$
<b>Total Eliminations</b>	\$ <b>(Line 2)</b>
(C) Eligible Operating Expenses (Line 1 – Line 2)	\$ <b>(Line 3)</b>
(D) Less Farebox Revenues	\$ <b>(Line 4)</b>
(E) NET PROJECT COST (Line 3 – Line 4)	<b>(Line 5)</b>
(F) Local Share (Itemize)  (Human Services contract revenue)  (local sales tax)	\$ <b>(Line 6)</b>
(G) Net Expenses Before Applying FTA Funds (Line 5 – Line 6)	\$ <b>(Line 7)</b>
(H) Maximum FTA Share	\$ <b>(Line 8)</b>
(I) FTA Funds Requested (this amount must not exceed line 6)	\$ <b>(Line 9)</b>

**APPENDIX B:****PREVENTIVE MAINTENANCE (SECTIONS 5307 AND 5337)**

Preventive maintenance, according to FTA policy, is defined as all maintenance. Specifically, it is defined as all the activities, supplies, materials, labor, services, and associated costs required to preserve or extend the functionality and serviceability of the asset in a cost-effective manner, up to and including the current state of the art for maintaining such asset. If a recipient purchases service instead of providing the operating service itself, and the contract includes maintenance for that purchased service, then the recipient may apply for preventive maintenance capital assistance under the capital cost of contracting policy.

Preventive maintenance is an operating expense that is eligible as a capital project at an 80/20 Federal/local match; capital maintenance expenses are eligible under most FTA funding programs.

FTA cautions recipients not to confuse the fact that maintenance items often considered operating expenses may be eligible for FTA capital assistance. Generally accepted accounting principles and the recipient's accounting system determine which costs the recipient is to account for as operating costs. The [NTD](#) follows generally accepted accounting principles, so a recipient reporting to the NTD must report the operating costs it has incurred as operating costs, regardless of the costs' eligibility for FTA capital assistance. Recipients may not count the same costs twice.

The USOA is the basic reference document for the NTD. It contains the accounting structure required by FTA laws. The NTD consolidates seven detailed functions from the USOA as basic function 041—Vehicle Maintenance and consolidates 13 detailed functions from the USOA as basic function 042—Nonvehicle Maintenance. All of the activities included in basic functions 041 and 042 are maintenance, and thus eligible capital assistance projects. Vehicle maintenance is all of the activities associated with ensuring revenue vehicles and service vehicles are operable, cleaned, fueled (not including fuel cost), inspected, and repaired.

There are seven detailed functions in the Maintenance Administration—Vehicles function (041).

**1. Maintenance Administration—Vehicles (041)**

Includes preparing maintenance records, analyzing data for vehicle performance, and providing technical training for vehicle maintenance personnel.

**2. Servicing revenue vehicles (051)**

Includes providing supervision and clerical support for servicing revenue vehicles, refueling, interior cleaning, and exterior washing of revenue vehicles.

**3. Inspection and maintenance of revenue vehicles (061)**

Includes performing scheduled preventive maintenance on vehicle components, performing vehicle overhaul, performing minor repairs, traveling to vehicle breakdowns to repair or tow revenue vehicles, rebuilding and overhauling repairable components, performing major repairs on revenue vehicles (e.g., body work, reupholstering, unit rebuilds), and replacing major repairable units of revenue vehicles (e.g., engines, transmissions, and air conditioners). It does not include vehicle rebuild.

**4. Accident repairs of revenue vehicles (062)**

Includes repairing damage as a result of collisions, floods, and accidental fires.

**5. Vandalism repairs of revenue vehicles (071)**

Includes repairing all special damage resulting from willful or malicious destruction or defacement.

**6. Servicing and fueling of service vehicles (081)**

Includes fueling, interior cleaning, and exterior washing of service vehicles, refueling, and adding oil and water to service vehicles.

**7. Inspection and maintenance of service vehicles (091)**

Includes inspecting service vehicle components on a scheduled preventive maintenance basis, vehicle overhaul, minor repairs, going to vehicle breakdowns for tow or repair, rebuilding and overhauling repairable components, performing major repairs on service vehicles (e.g., body work, reupholstering, unit rebuilds), and replacing major repairable units of service (e.g., engines, transmissions, and air conditioners). It does not include vehicle rebuild.

There are 13 detailed functions in the basic Nonvehicle Maintenance function (042).

**1. Maintenance administration—nonvehicles (042)**

Includes preparing transit way and structures maintenance records and providing supervision/clerical support for the administration of transit way and structures maintenance and other buildings, grounds, and equipment maintenance; preparing and updating transit way and structures maintenance records and other buildings, preparing grounds and equipment maintenance records; providing technical training to facilities maintenance personnel; and engineering maintenance of transit way and structures and of other buildings, grounds, and equipment.

**2. Maintenance of vehicle movement control systems (101)**

Includes inspecting, cleaning, repairing, and replacing all components of vehicle movement control systems.

**3. Maintenance of fare collection and counting equipment (111)**

Includes inspecting, repairing, and replacing all components of fare collection and counting equipment, such as on vehicle fareboxes, ticket vending machines, fare gates, vaults and money counters, changers, and sorters.



**4. Maintenance of roadway and track (121)**

Includes inspecting, cleaning, repairing, clearing, and replacing all components of roadway and track.

**5. Maintenance of structures, tunnels, bridges, and subways (122)**

Includes inspecting, cleaning, repairing, and replacing all components of structures, tunnels, bridges, and subways.

**6. Maintenance of passenger stations (123)**

Includes inspecting, repairing, and replacing components of passenger station building and equipment, and providing custodial services for passenger station building and grounds.

**7. Maintenance of operating station buildings, grounds, and equipment (124)**

Includes inspecting, repairing, and replacing components of operating station buildings and equipment, and providing custodial services for operating station buildings and grounds.

**8. Maintenance of garage and shop buildings, grounds, and equipment (125)**

Includes inspecting, repairing, and replacing components of garage and shop buildings and equipment, and providing custodial services for garage and shop buildings and grounds.

**9. Maintenance of communication systems (126)**

Includes inspecting, cleaning, repairing, and replacing all components of communication system other than vehicle movement control systems.

**10. Maintenance of general administration, buildings, grounds, and equipment (127)**

Includes inspecting, repairing, and replacing components of buildings and equipment used for general administration.

**11. Accident repairs of buildings, grounds, and equipment (128)**

Includes repairing all damage to buildings, grounds, and equipment resulting from collisions with stationary or moving objects, floods, accidentally ignited fires, etc.

**12. Vandalism repairs of buildings, grounds, and equipment (131)**

Includes repairing all damage as a result of willful or malicious destruction or defacement of buildings, grounds, and equipment.

**13. Operation and maintenance of electric power facilities (141)**

Includes supervising, monitoring, and operating electric power generation and distribution facilities for third rail, overhead lines, cable systems, etc.

For NTD reporting purposes, inspection and maintenance of revenue or service vehicles, work on repairable units such as engine rebuilds, and overhauls are an operating expense only if they meet the criteria established by FTA in determining when an item is an operating or a capital expenditure. If the total labor and materials necessary for the rebuild or overhaul are less than a unit value of \$5,000 or a lesser capitalization level used by the agency, such as \$3,000, then this is an operating expense reported on the operating expenses form of the NTD (F-30). If more than \$5,000, then the rebuild or overhaul expenses are a capital expenditure on the uses of capital form of the NTD (F-20).

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According to FTA Circular 5010.1F, overhaul is maintenance that does not add to the useful life of the vehicle. This eligibility for capital assistance also applies to leasing and contracted service. Rolling stock to be overhauled must have accumulated at least 40 percent of its service life, as per FTA Circular 5010.1F.

FTA Circular 5010.1F states that in order for a bus to be rebuilt it should be at the end of its minimum useful life and in need of major structural and/or mechanical rebuilding. Rebuilding is a recondition at the end of useful life that creates additional useful life. The age of the bus to be rebuilt is its years of service at the time the rebuilding begins. In order for a railcar to be rebuilt, it must have reached the end of its minimum useful life for an end of life rebuild. The minimum extension of useful life is 10 years for rail cars, as per FTA Circular 5010.1F. The eligibility of this major capital rebuild work is in addition to the eligibility of vehicle overhauls.

Under 49 CFR 37.75 and 37.83, any public entity that remanufactures a bus or rail vehicle for use in fixed route service to extend its useful life for five years or more, must be made readily accessible to and useable by persons with disabilities, including wheelchair users.

Rebuilding a vehicle is also an eligible capital cost under the category of preventive maintenance.

An application for preventive maintenance must include a time period over which the recipient incurred the maintenance costs or expects to incur them. Maintenance costs can only be claimed for the current recipient fiscal year or the immediately preceding recipient fiscal year. FTA reserves the right to review a recipient's cost for maintenance as reported currently in the NTD when FTA receives an application for assistance with preventive maintenance.

**INDEX**

(The index will be added at the end of the process, once all the content has been finalized.)



**DEPARTMENT OF TRANSPORTATION**

**Federal Transit Administration**

**[Docket No. FTA-2023-0009]**

**Grant Programs for Urbanized Areas: Program Guidance and Application**

**Instructions, Proposed Circular**

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of Availability of Proposed Circular and Request for Comments.

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**SUMMARY:** The Federal Transit Administration (FTA) is seeking public comment on a new, consolidated circular entitled, “Grant Programs for Urbanized Areas: Program Guidance and Application Instructions” which is comprised of the circulars for the Urbanized Area Formula Grants Program under 49 U.S.C. 5307 (FTA C 9030.1), the State of Good Repair Grants Program under 49 U.S.C. 5337 (FTA C 5300.1), and the Urbanized Area formula component of the Grants for Buses and Bus Facilities Program under 49 U.S.C. 5339(a) (FTA C 5100.1). The update and consolidation of the circulars incorporate the provisions of the Fixing America’s Surface Transportation (FAST) Act and the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law (BIL), amendments to 2 CFR Parts 200 and 1200, and updates to FTA policies and procedures.

**DATES:** Comments must be submitted by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** Please submit your comments by only one of the following methods, identifying your submission by docket number FTA-2023-0009. All electronic submissions must be made to the U.S. Government electronic site at <https://www.regulations.gov/>.

- 1) Federal eRulemaking Portal: Go to <https://www.regulations.gov/> and follow the online instructions for submitting comments.
- 2) Mail: Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- 3) Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, between 9 a.m. and 5 p.m. Eastern time, Monday through Friday, except Federal holidays.
- 4) Fax: 202-493-2251.

Instructions: You must include the agency name (Federal Transit Administration) and Docket number (FTA-2023-0009) for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA received your comments, include a self-addressed stamped postcard. Note that all comments received will be posted without change to <https://www.regulations.gov/> including any personal information provided and will be available to internet users. For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

Docket: For access to the docket to read background documents and comments received, go to <https://www.regulations.gov/> at any time or to the U.S. Department of Transportation, 1200 New Jersey Ave SE, Docket Operations, M-30, West Building Ground Floor, Room W12-140, Washington, DC 20590 between 9:00 a.m. and 5:00 p.m. Eastern Time, Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For program questions, Latrina Trotman, Office of Program Management, Federal Transit Administration, 1200 New Jersey Ave. SE, Room E46-301, Washington, D.C., 20590, phone: (202) 366-2328, or e-mail, [Latrina.Trotman@dot.gov](mailto:Latrina.Trotman@dot.gov). For legal questions, Jerry Stenquist, Office of Chief Counsel, same address, Room E56-314, phone: (202) 493-8020, or e-mail, [Jerry.Stenquist@dot.gov](mailto:Jerry.Stenquist@dot.gov).

**SUPPLEMENTARY INFORMATION:**

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## **I. Overview**

The Federal Transit Administration's (FTA) proposed circular titled, "Grant Programs for Urbanized Areas: Program Guidance and Application Instructions" is a consolidation of guidance for the administration and preparation of grant applications for the Urbanized Area Formula Grants Program under 49 U.S.C. § 5307, State of Good Repair Grants Program under 49 U.S.C. § 5337, and the Urbanized Area component of the Grants for Buses and Bus Facilities Program under 49 U.S.C. § 5339(a). Additionally, this circular incorporates provisions of the FAST Act and BIL and includes program-specific guidance for these formula programs. Additional requirements for all grant programs are identified in FTA's Award Management Requirements Circular, 5010.1. The proposed circular is posted on [www.regulations.gov](http://www.regulations.gov) in Docket FTA-2023-0009.

The proposed circular consolidates and summarizes programmatic information, streamlines pre-existing guidance from the three program circulars, and reduces duplication of information provided between the Urbanized Area Formula Programs circular and FTA's other topic-specific circulars, including by moving certain text applicable to most or all of FTA's grant programs to FTA's Award Management Requirements Circular, 5010.1. Furthermore, the proposed circular clarifies a number of policy issues as interpreted and applied by FTA. These clarifications address topics in the existing program circulars, including: reallocations or transfers of apportionments; consolidation of grants to insular areas; intermodal use of formula funds; eligible projects and activities for each formula program; operating assistance limitations and exceptions; capital cost of contracting; the role of transportation network companies in providing public transportation services; period of availability to obligate funds flexed to the FTA

formula programs from the Federal Highway Administration (FHWA); planning requirements; pre-award authority; and requirements pertaining to fares charged to seniors and persons with disabilities.

## **II. Chapter-by-Chapter Analysis**

### **A. Chapter I – Introduction and Background**

Due to the consolidation of the three program circulars, definitions and program descriptions were compared and revised for consistency with proposed updates to FTA Circular 5010.1E “Award Management Requirements” (5010 Circular), FTA Circular 9040.1G “Formula Grants for Rural Areas,” and FTA Circular 9070.1G “Enhanced Mobility of Seniors and Individuals with Disabilities.” FTA proposes to amend the definitions section for consistency, clarification, and to reflect changes to statute and other authorities. Specifically, FTA has updated the following terms:

- “Capital Asset” is modified for consistency with Generally Accepted Accounting Principles (GAAP), Governmental Accounting Standards Board (GASP), Financial Accounting Standards Board (FASB), and FTA’s Uniform System of Accounts.
- “Clean Fuel Bus” now recognizes other low or no emissions technologies besides full electric and hybrid electric buses.
- “Fleet Management Plan” is modified to explicitly clarify that the management plan includes an inventory of all rolling stock.

- “Mobility Management” is modified to explicitly state the exclusion of operation of public transportation service as a mobility management activity, consistent with the definition in 49 U.S.C. § 5302.
- “Rehabilitate” is expanded to include applicability to facilities and amended to clarify that not all rehabilitative activities must be a restoration to original condition to more accurately reflect the term’s broad usage in 49 U.S.C. §§ 5337, 5339.
- “Urbanized Area” is updated to reflect changes in designation by the Census Bureau, which no longer utilizes “Urbanized Area” but “Urban Area” (UZA), as defined by the Secretary of Commerce.
- “Useful Life” now applies to real property and other capital assets. Because useful life depends on depreciation and estimated time in use, consideration of useful life changes according to the type of asset in question.

## **B. Chapter II – Programs Overview**

FTA proposes several updates to its program guidance within Chapter II to reflect statutory and regulatory changes, including information disseminated by the Census Bureau. The proposed circular further addresses administrative procedure in apportioning and distributing funds, including the roles of designated recipients (DR), state recipients, subrecipients, and private contractors.

The proposed circular includes information related to private contractors such as transportation network companies (TNCs) and taxi-service; these entities are not eligible subrecipients under sections 5307, 5337 and 5339(a) but may be contracted to perform

public transit activities through eligible recipients for shared-ride on-demand service to the general public or to a segment of the public for certain eligible transit services.

### **C. Chapter III – General Program Information**

The proposed circular contains several updates regarding the apportionment of program funds for Sections 5307, 5337, and 5339 to reflect statutory and regulatory changes. Specifically, the percentages of Section 5307 funds available for state safety oversight programs and small transit intensive cities have been amended. Furthermore, the proposed circular includes additional formula factors for apportionments for the Section 5307 and 5339 programs. Chapter III also clarifies and highlights recipients' flexibility to reallocate or transfer apportionments, including consolidating formula program funds for use in insular areas. Lastly, the circular sets forth the circumstances in which certain human resources and training supportive services are eligible costs under Section 5314(b)(4) to assist individuals in the enrollment and completion of workforce training, including child and dependent care, tools, work clothing, costs of apprenticeship, and required pre-employment training.

### **D. Chapter IV – Eligible Projects and Requirements**

The proposed circular contains several changes to the programs' eligibility and requirements to include additional flexibilities provided by law. Specifically, FTA proposes additional flexibility in financial assistance eligibility, namely that Section 5307 funds that are apportioned to a UZA based on service metrics for a variety of public transportation modes may be expended on eligible activities for other modes. Additionally, funds apportioned under Section 5340 may be expended on the same activities that are eligible under Section 5307 for each recipient. FTA further clarifies that

Section 5337 funds apportioned to a UZA based on the presence of high-intensity motorbus may also be expended on high intensity fixed guideway projects. Lastly, the proposed circular explains that while funds are apportioned based on the presence of high intensity motorbus and high intensity fixed guideway segments in revenue service for at least seven years, the funds may be used on any part of a recipient's fixed-guideway or high-intensity motorbus system.

The proposed circular includes guidance on additional flexibility in program eligibility provided by the FAST Act and BIL, including additional eligibility for a recipient to use up to 20 percent of its annual Section 5307 apportionment at the capital project 80/20 Federal/local share ratio to pay for complementary paratransit services, providing for innovative procurement tools for acquiring rolling stock, accounting for the expansion of transit facilities to accommodate clean fuel vehicles, and providing funding for programs addressing public transportation human resource needs.

The proposed circular reemphasizes procedural safeguards in accounting for the capital cost of contracting to prevent recipients from utilizing this method for publicly funded assets and thus receiving reimbursement for the asset from two or more public sources and potentially resulting in overlapping federal interests. The capital cost of contracting language is also modified to clarify the exclusion of Section 5337 and 5339(a) funds from use toward capital cost of contracting except for what is specifically eligible under both programs (e.g., leasing of vehicles, equipment, and facilities for Sections 5337 and 5339 and maintenance for Section 5337).

FTA also proposes updating language to account for multiple modifications to the special operations rule for large UZAs due to statutory changes, including applicability of

vehicles in demand-response service and an exception to the special rule that allows up to a ten percent greater operating assistance cap for recipients. In addition, FTA updated the list of operating expenses eligible for FTA operating assistance, including public transportation security operating projects. The proposed circular also modifies the list of eligible activities for Job Access and Reverse Commute (JARC) projects.

#### **E. Chapter V – Planning & Project Development**

The proposed circular amends various provisions regarding planning and project development, including clarifications to how transportation improvement programs and statewide transportation improvement programs should address projects outside of UZAs but within metropolitan planning organizations. The circular explicitly identifies MPOs as the responsible party for the development and adoption of the metropolitan transportation plan and transportation improvement program, clarifying that each must cover a minimum twenty-year horizon and four-year horizon, respectively.

FTA proposes to remove language included in the previous Section 5339 circular that restricts application for funds directly to designated recipients only on behalf of subrecipients, now allowing direct privity between FTA and other public entities eligible to be Direct Recipients, consistent with changes in the law.

The proposed section titled “Program of Projects and Public Participation Requirements” clarifies that recipients must submit the appropriate documentation demonstrating recipients complied with a local project selection process through an amendment to the relative TIP/STIP. The section also clarifies that recipients must provide FTA with documentation of their amendment of a Program of Projects, TIP, and

STIP to reflect applicable changes when the recipient proposes an award modification deviating from an applicable Program of Projects, TIP, or STIP.

In the section titled, “Availability of FHWA Flexible Funds for Transit Projects,” FTA describes how recipients may flex funds from FHWA to FTA, which may only be used for activities eligible under both the transferring and receiving programs. Funds transferred to FTA must be administered under applicable FTA program requirements. This section includes a list of FHWA programs from which funds may be flexed for planning, capital, or operating projects, and has been updated to reflect changes in the law since the last circular update.

The proposed circular seeks to further reduce administrative burden on recipients by consolidating reporting requirements, including the allowance that information on spending toward associated transit improvements, required under 49 U.S.C. § 5307(c)(1)(K), may be joined within other reports.

Under “Public Transportation Security Projects,” the proposed circular notes that some security projects may also satisfy the separate requirement that each recipient in a UZA of 200,000 people or more use 0.75 percent of Section 5307 funds on safety projects.

In the section on “Transit Asset Management Requirements,” FTA updated its guidance to reflect changes in 49 U.S.C. 5326 and 49 CFR Part 625, including clarifying the relationship between transit asset management (TAM) plans and recipients’ use of Section 5337 funds.

In the section titled “Public Transportation Safety Requirements,” the proposed circular contains updates reflecting statutory and regulatory updates, including 49 U.S.C.



5329 requirements for National Public Transportation Safety Plans, 49 CFR Part 672 requirements for Public Transportation Safety Certification Training Programs, 49 CFR Part 674 requirements for State Safety Oversight Program, and 49 CFR Part 673 requirements for Public Transportation Agency Safety Plans.

The circular includes proposed language addressing pre-award authority, including providing automatic pre-award authority for certain types of capital expenses. The proposed circular also clarifies that recipients may incur capital expenses under pre-award authority for projects that clearly meet the criteria for a categorical exclusion under 23 CFR 771.118, though they do so at their own risk.

#### **F. Chapter VI – Program Management and Administrative Requirements**

FTA proposes updates to reflect statutory changes and to expand the explanation of various certifications required for the Urbanized Area Formula Grant Programs. Specifically, the proposed circular more comprehensively describes the requirement and circumstances under which Section 5307 recipients may charge seniors and persons with disabilities during nonpeak hours no more than half the peak fare.

#### **G. Appendices**

FTA proposes revisions to various appendices between the three formula circulars and this new consolidated circular. Appendices were either moved, relabeled, updated, or removed. For example, the proposed “Appendix B: Preventive Maintenance (Section 5307 and 5337)” was previously Appendix E in pre-existing Section 5307 circular. This appendix also was updated to be made applicable to Section 5337.

After a review and consideration of the comments provided on this new Circular and various updates, FTA will publish the updated Circular on its website.

Issued in Washington, DC, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**Nuria I. Fernandez,**

*Administrator.*