

Instructions for the Fiscal Year 2018 Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements

These instructions provide a condensed list of the pre-award Certifications and Assurances that may apply to an Applicant to the Federal Transit Administration (FTA) for federal assistance and the Award that may be made in Fiscal Year (FY) 2018. These instructions also describe the Applicant's responsibilities with respect to the Certifications and Assurances and highlight the differences between the FY 2018 Certifications and Assurances and those published for FY 2017.

Each Applicant must submit the Certifications and Assurances that apply to the Applicant and any Award for which it seeks federal assistance during FY 2018. An Applicant typically acts through its authorized representative (You). You, as the Applicant's Authorized Representative, must have the authority to sign the Applicant's Certifications and Assurances and to bind your Applicant's compliance with the Certifications and Assurances you select on its behalf. Your Applicant's Certifications and Assurances must be affirmed by its attorney. This instructions detail how and when you should submit your Applicant's Certifications and Assurances for FY 2018.

FTA has assembled those Certifications and Assurances into the following twenty-one (21) categories:

Category 01. Required Certifications and Assurances for Each Applicant,

Category 02. Lobbying,

Category 03. Private Sector Protections,

Category 04. Rolling Stock Reviews and Bus Testing,

Category 05. Demand Responsive Service,

- Category 06. Intelligent Transportation Systems,
- Category 07. Interest and Financing Costs and Acquisition of Capital Assets by Lease,
- Category 08. Transit Asset Management Plan and Public Transportation Agency Safety Plan,
- Category 09. Alcohol and Controlled Substances Testing,
- Category 10. Fixed Guideway Capital Investment Grants Program (New Starts, Small Starts, and Core Capacity Improvement),
- Category 11. State of Good Repair Program,
- Category 12. Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs,
- Category 13. Urbanized Area Formula Grants Programs and Passenger Ferry Grant Program,
- Category 14. Seniors and Individuals with Disabilities Programs,
- Category 15. Rural and Appalachian Development Programs,
- Category 16. Tribal Transit Programs (Public Transportation on Indian Reservations Programs),
- Category 17. State Safety Oversight Grant Program,
- Category 18. Public Transportation Emergency Relief Program,
- Category 19. Expedited Project Delivery Pilot Program,
- Category 20. Infrastructure Finance Programs, and
- Category 21. Construction Hiring Preferences.

Since 1995, FTA has consolidated the pre-award Certifications and Assurances required by law or regulation into a single document for publication. To receive federal assistance appropriated or made available for the Grant, Cooperative Agreement, Loan, Loan Guarantee, Line of Credit, and Major Credit Instrument programs FTA/DOT administers, each Applicant must submit the annual Certifications and Assurances required for the type of federal assistance it seeks.

These FY 2018 Certifications and Assurances supersede any Certifications and Assurances published in an earlier fiscal year. After publication, each Applicant must submit applicable FY 2018 Certifications and Assurances before FTA may award federal assistance to support that Applicant's request.

1. What is The Legal Effect of these Certifications and Assurances?

a. Pre-Award Representations. These Certifications and Assurances are pre-award representations typically required by federal law or regulation that the Applicant must submit before FTA may provide federal assistance for its Award. In general, these FY 2018 Certifications and Assurances are effective October 1, 2017, except as FTA determines otherwise in writing.

Upon publication, FTA may not award new federal assistance to your Applicant until you submit your Applicant's FY 2018 Certifications and Assurances.

b. Binding Commitment. Your Applicant must comply with any Certifications or Assurances you make on its behalf, irrespective of whether you remain your Applicant's authorized representative. When you submit the Certifications and Assurances to FTA, both you and your Applicant are agreeing to comply with those

terms.

c. Length of Commitment. Your Applicant's FY 2018 Certifications and Assurances remain in effect until the Award is closed or the end of the useful life of the federally assisted assets, whichever is later. If your Applicant provides different Certifications and Assurances in a later fiscal year, the later Certifications and Assurances will usually apply, except as FTA determines otherwise in writing.

d. Duration. You and your Applicant may use the FY 2018 Certifications and Assurances on FTA's Web site, www.transit.dot.gov to support applications for federal assistance until FTA issues its FY 2019 Certifications and Assurances.

e. The FY 2018 Certifications and Assurances Are Not a Complete List of Federal Requirements. FTA cautions that the FY 2018 Certifications and Assurances focus mainly on those representations that your Applicant is required to submit to FTA before FTA may award federal assistance. Consequently, these Certifications and Assurances do not include many other federal requirements that will apply to your Applicant and the Award. Your Applicant is responsible for compliance with all applicable federal requirements.

f. Federal Requirements. In addition to the information in this notice and FTA's FY 2018 Apportionments Notice, FTA strongly encourages you and your Applicant's staff and prospective and current Third Party Participants to review all federal legislation, regulations, safety directives, and guidance that apply to them and to your Applicant's proposed Award. The Master Agreement identifies many of those requirements and applicable guidance, and may be accessed at www.transit.dot.gov.

g. Penalties for False or Fraudulent Statements. If you provide any false or

fraudulent statement to the Federal Government on behalf of your Applicant or yourself, you may incur both federal civil and criminal penalties under the following statutes:

- (1) The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq.,
- (2) U.S. Department of Transportation (U.S. DOT) regulations, “Program Fraud Civil Remedies,” 49 CFR part 31, and (3) Section 5323(1)(1) of title 49, United States Code, which authorizes federal criminal penalties and termination of federal assistance if you provide, on behalf of your Applicant or yourself, a false or fraudulent certificate, submission, or statement in connection with the Federal Transit Program authorized by 49 U.S.C. chapter 53.

2. What are Your Responsibilities?

a. Make sure that all involved with your Applicant’s Award understand the federal requirements that will apply to your Applicant and the Award. FTA strongly advises you, as your Applicant’s authorized representative, to read this notice and the Certifications and Assurances on the FTA Web site www.transit.dot.gov before selecting Certifications and Assurances on behalf of your Applicant. FTA also advises you to read the information accompanying the apportionment tables when FTA publishes its FY 2018 Apportionments Notice.

Your Applicant is responsible for compliance with all federal requirements that apply to itself and its Award. Other entities and people, including Subrecipients, Third Party Contractors, and Third Party Subcontractors (Third Party Participants) can adversely affect your Applicant’s ability to comply with those federal requirements. Accordingly, all Third Party Participants involved in the Award need to know and should

agree to comply with the federal requirements that affect your Applicant's Award and themselves, as Third Party Participants.

b. Subrecipient and Other Third Party Participation. Except when FTA has determined otherwise in writing, your Applicant is ultimately responsible for compliance with all Certifications and Assurances that you select on its behalf, even if the Award and some or all of the activities therein will be carried out by Subrecipients or other Third Party Participants. Therefore, FTA strongly recommends that you take appropriate measures to ensure that Subrecipients and other Third Party Participants involved in carrying out your Applicant's Award do not take actions that will cause your Applicant to violate the representations made in its Certifications and Assurances.

c. Submit Your Applicant's Certifications and Assurances. You must submit all Categories of the FY 2018 Certifications and Assurances that apply to your Applicant and the Award(s) it seek in FY 2018. Category one (1) is required of all Applicants. For your convenience, FTA recommends that you submit all twenty-one (21) Categories of Certifications and Assurances. Those provisions of the Certifications and Assurances that do not apply to your Applicant or the Award will not be enforced.

d. Submit Your Applicant's Required Documentation. You must ensure that your Applicant has submitted to FTA a correct, current version of the following documents: (1) Authorizing Resolution; (2) Opinion of Counsel; and (3) Designation of Signature Authority. A new Authorizing Resolution may be needed if a previous Authorizing Resolution does not cover the work in the new application. A new Opinion of Counsel may be needed if your Applicant's legal status has changed. FTA requires that the Designation of Signature Authority reflect the current status of the appropriate

officials with authority to bind your Applicant. Should you already have documentation on file reflecting the correct status of your Applicant's officials, further action to update the Designation of Signature Authority is not required. Sample templates for the above documents may be accessed at <https://www.transit.dot.gov/trams>. You must upload any updated documents concurrently with your Certifications and Assurances.

e. Obtain the Affirmation of Your Applicant's Attorney. You must obtain an affirmation of your Applicant's Attorney, signed in FY 2018, stating that your Applicant has sufficient authority under its state and local laws to certify its compliance with the FY 2018 Certifications and Assurances that you have selected on its behalf; the Certifications and Assurances have been legally made and constitute legal and binding obligations on your Applicant; and there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of your Applicant's FTA assisted Award. Your Applicant's Attorney must sign this affirmation during FY 2018. An Affirmation of your Applicant's Attorney dated in a previous fiscal year is insufficient, unless FTA expressly determines otherwise in writing.

f. When to Submit.

(1) If your Applicant is applying for federal assistance under any of FTA's discretionary capital programs (e.g., New Starts, Small Starts, or Core Capacity Improvement) or formula programs, FTA expects to receive your Applicant's FY 2018 Certifications and Assurances within ninety (90) days from February 22, 2018, for FY 2018 or soon after the submittal of your Applicant's first request for federal assistance for FY 2018.

(2) If your Applicant seeks federal assistance from an FTA program other than a formula program or a discretionary capital or operating program, e.g., for a Public Transportation Innovation (formerly, Research, Development, Demonstration, and Deployment) Award, FTA expects to receive your Applicant's FY 2018 Certifications and Assurances with the submission of its Application for federal assistance or an amendment to an existing Award.

3. Where Are FTA's FY 2018 Certifications and Assurances?

FTA's FY 2018 Certifications and Assurances are available on FTA's Web site, www.transit.dot.gov/certs.

4. What Changes Have Been Made Since the FY 2017 Certifications and Assurances were Published?

The most significant changes are:

- a. We have added a new subparagraph (4) to Category 01.D.3.j to include Civil Rights requirements on any transfer of property acquired or improved with federal assistance, for the period during which the real property is used for a purpose for which the financial assistance is extended or for another purpose involving the provision of similar services or benefits.
- b. We have clarified subparagraph (3) of Category 01.G.2.b to state that the Recipient will add a covenant of nondiscrimination to any real property it retains or transfers.
- c. We have transferred Category 03, "Procurement Certification," to

Category 01.E, and amended it to reflect the Applicant's certification to comply with applicable federal laws, regulations, and requirements and follow the latest edition of FTA Circular 4220.1 and other applicable federal guidance. The remaining Categories of Certifications and Assurances are re-numbered consecutively.

d. We have re-numbered Category 08.C, "State Safety Oversight Requirements," to add a new paragraph (3) to state that:

(1) If your Applicant does not have a certified State Safety Oversight Program, it will make progress towards meeting the April 15, 2019, State Safety Oversight Program certification deadline, and

(2) This Certification applies only to states that have a rail fixed guideway public transportation system.

e. We have added new paragraphs 5.e and 5.f to Category 16, "Tribal Transit Programs Public Transportation on Indian Reservations Programs" to inform Applicants for federal assistance under those programs that they must comply with Category 08.A "Transit Asset Management Plan," Category 08.B "Public Transportation Safety Program," and Category 09 "Alcohol and Controlled Substances Testing."

f. FTA does not require Recipients with an active Capital or Formula Award to submit FY 2018 Certifications and Assurances if they are not seeking federal assistance in FY 2018.

g. We have removed the certification for the Paul S. Sarbanes Transit in the Parks Program, given all funds for the program are obligated and no new grants are possible for this program in FY 2018.

5. How do you submit the Certifications and Assurances?

a. Electronic Submission. Except in rare circumstances and if permitted by FTA, you must submit your Applicant's FY 2018 Certifications and Assurances and your attorney's Affirmation in TrAMS (www.transit.dot.gov/trams). To submit the Certifications and Assurances, you must be registered in TrAMS. TrAMS contains fields for individually selecting among the twenty-one (21) Categories of Certifications and Assurances that apply to your Applicant and also a designated field for selecting all twenty-one (21) Categories, of which only the requirements that apply to you or your Applicant will be enforced.

As an authorized representative of the Applicant, you must enter your personal identification number (PIN), which is your electronic signature, in TrAMS. The Attorney must enter his or her PIN in TrAMS, affirming your Applicant's legal authority to make and comply with the Certifications and Assurances that you have selected on its behalf. You may enter your PIN in place of the Attorney's PIN, provided that your Applicant has on file and uploads to TrAMS a similar affirmation that has been written, dated, and signed by its Attorney in FY 2018.

b. Paper Submission. Only in very limited circumstances may your Applicant submit its FY 2018 Certifications and Assurances solely on paper. For example, if the Applicant has demonstrated that it is unable to submit its Certifications and Assurances in TrAMS or is a one-time recipient, and if FTA has agreed in writing to accept your Applicant's Certifications and Assurances on paper, then your Applicant may indicate the Categories of Certifications and Assurances your Applicant is submitting in typewritten hard copy on the Signature Pages accompanying the Certifications and Assurances.

To do so, you may place a single mark in the designated space to signify your Applicant's agreement to comply with all Categories of Certifications and Assurances to the extent that they apply to it, or select the specific Categories of Certifications and Assurances that apply to your Applicant and the Award. You must obtain your Attorney's signature, whether on the Signature Page or on a separate document that makes the same affirmation as on the Signature Page. In such a case, the Regional Office or the Headquarters Program Office must attach the paper submission to TrAMS.

For more information, you may contact the appropriate FTA Regional or Metropolitan Office.