

# 14. SCHOOL BUS

## PURPOSE OF THIS REVIEW AREA

Recipients are prohibited from providing school bus service in competition with private school bus operators unless the service qualifies and is approved by the Federal Transit Administration (FTA) Administrator under an allowable exemption. Federally funded equipment or facilities cannot be used to provide exclusive school bus service.

## QUESTIONS TO BE EXAMINED

1. If the recipient operates school bus service, does it meet one of the statutory exemptions, have FTA approval, and use only locally-funded assets?
2. If the recipient operates tripper service, does it meet FTA's requirements?
3. Does the recipient ensure that subrecipients, contractors and lessees that operate school bus service, do so in accordance with the FTA regulations?
4. Does the recipient ensure that subrecipients, contractors and lessees operate tripper service in accordance with the FTA regulations?

## INFORMATION NEEDED FROM RECIPIENT

### Recipient Information Request

- List of assets used in exclusive school bus operations for:
  1. recipients
  2. subrecipients
  3. contractors
  4. lessees
- List of subrecipients, contractors, and lessees that operate exclusive school bus service

### Recipient Follow-up

- Recipient application transmitted to the FTA Administrator requesting approval, including a copy of the certification in lieu of notice
- The agreement with the FTA Administrator

---

---

## SB1. If the recipient operates school bus service, does it meet one of the statutory exemptions, have FTA approval, and use only locally-funded assets?

### BASIC REQUIREMENT

A recipient may not engage in school bus operations unless it meets one of three exemptions, has received FTA approval, and uses only locally-funded equipment and facilities.

### APPLICABILITY

All recipients that provide bus service

## EXPLANATION

There are three statutory exemptions under which an FTA recipient may operate exclusive school bus service:

<b>SCHOOL BUS EXEMPTIONS</b>
<ol style="list-style-type: none"><li>1. The recipient operates a school system in its urban area and also operates a separate and exclusive school bus program for that school system.</li><li>2. Existing private school bus operators in the urban area are unable to provide adequate transportation at a reasonable rate and in conformance with applicable safety standards.</li><li>3. The recipient, a public entity, has operated exclusive school bus service:<ul style="list-style-type: none"><li>o In the case of an award involving the purchase of buses—anytime during the 12-month period immediately prior to August 13, 1973.</li><li>o In the case of an award for construction or operating of facilities and equipment made pursuant to the FT Act as amended (49 U.S.C. 1601 et seq.), anytime during the 12-month period immediately prior to November 26, 1974.</li></ul></li></ol>

A recipient wishing to engage in school bus operations under one of these exemptions must provide an opportunity for public comment, including providing written notice to all private school bus operators and publishing notice in the local newspaper.

The FTA Administrator makes the determination of whether to permit a recipient to operate exclusive school bus service under one of the statutory exemptions. Upon notice of approval by the Administrator, the recipient enters into an agreement with the FTA.

Exclusive school bus service operated under an approved exemption must use locally owned vehicles that are not housed or maintained in an FTA-funded facility. FTA-funded equipment and facilities cannot be used for exclusive school bus service under any circumstances.

## INDICATORS OF COMPLIANCE

- a. *Does the recipient operate school bus service? If no, move to the next question.*
- b. *If yes, is the service eligible for any of the three exemptions included in the chart above?*
- c. *Has the recipient received authorization from the Administrator to engage in school bus operations?*
  1. *Has the recipient entered into an agreement with the Administrator?*
  2. *Has the recipient promptly notified the Administrator of any changes in its operations which might jeopardize the continuation of any of the above exemptions?*
- d. *Are buses, facilities or equipment used in school bus operations locally funded?*

## DETERMINING COMPLIANCE

Obtain and review prior review documentation in FTA's oversight tracking system (OTrak) to verify if the recipient has previously engaged in school bus service. Review the recipient website, route maps, and schedules to determine if school bus service is currently provided. In discussions with the regional office, request and review any agreement between the recipient and the FTA Administrator to ensure the recipient's school bus operations are implemented in accordance with the agreement. Review the recipient's source of funds provided in the Financial Management and Capacity review area to determine if school bus revenue/subsidy is recorded.

Receive and review the recipient listing of assets used in school bus operations (i.e., buses, facilities, and equipment) and cross reference to the Federal asset listing provided in review area Satisfactory and Continuing Control to verify that Federally funded assets are not used in school bus operations.

During the tour of facilities, look for buses that carry designations such as “school bus” or “school special.”

### **POTENTIAL DEFICIENCY DETERMINATIONS**

The recipient is deficient if it operates school bus service and has not obtained authorization from the FTA Administrator.

DEFICIENCY CODE SB1-1: Operates school bus service without FTA authorization

SUGGESTED CORRECTIVE ACTION 1: The recipient must submit to the FTA regional office a plan and schedule to cease providing school bus service that has not been authorized by the FTA Administrator and provide documentation of implementation of the plan and schedule.

SUGGESTED CORRECTIVE ACTION 2: The recipient must request approval from the FTA Administrator through the FTA regional office for provision of school bus service.

The recipient is deficient if it operates authorized school bus service but with FTA-funded equipment and/or facilities.

DEFICIENCY CODE SB1-2: FTA-funded equipment used in school bus service

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA regional office a plan and schedule to cease using FTA-funded equipment or facilities for school bus service and provide documentation of implementation of the plan.

### **GOVERNING DIRECTIVES**

49 CFR part 605, Subpart B: School Bus Agreements §605.11 Exemptions

“A recipient or applicant may not engage in school bus operations in competition with private school bus operators unless it demonstrates to the satisfaction of the Administrator as follows:

- (a) That it operates a school system in its urban area and also operates a separate and exclusive school bus program for that school system; or
- (b) That private school bus operators in the urban area are unable to provide adequate transportation, at a reasonable rate, and in conformance with applicable safety standards; or
- (c) That it is a state or local public body or agency thereof (or a direct predecessor in interest which has acquired the function of so transporting school children and personnel along with facilities to be used therefor) who was so engaged in school bus operations:

(1) In the case of a grant involving the purchase of buses—anytime during the 12-month period immediately prior to August 13, 1973.

(2) In the case of a grant for construction or operating of facilities and equipment made pursuant to the FT Act as amended (49 U.S.C. 1601 et seq.), anytime during the 12-month period immediately prior to November 26, 1974.”

49 CFR Part 605, Subpart B: School Bus Agreements §605.12 Use of project equipment:

“No recipient or operator of project equipment shall engage in school bus operations using buses, facilities or equipment funded under the Acts. A recipient or operator may, however, use such buses,

facilities and equipment for the transportation of school students, personnel and equipment in incidental charter bus operations. Such use of project equipment is subject to part 604 of Federal Mass Transit Regulations.”

49 CFR Part 605, Subpart B: School Bus Agreements §605.14 Agreement

“Except as provided in §605.11 no assistance shall be provided under the Acts unless the applicant and the Administrator shall have first entered into a written agreement that the applicant will not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators.”

49 CFR Part 605, Subpart B: School Bus Agreements §605.15 Content of Agreement

“(a) Every recipient who is not authorized by the Administrator under §605.11 of this part to engage in school bus operations shall, as a condition of assistance, enter into a written agreement required by §605.14 which shall contain the following provisions:

(1) The recipient and any operator of project equipment agrees that it will not engage in school bus operations in competition with private school bus operators.

(2) The recipient agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Mass Transit Regulations, or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).

(b) Every recipient who obtains authorization from the Administrator to engage in school bus operations under §605.11 of this part shall, as a condition of assistance, enter into a written agreement required by §605.14 of this part which contains the following provisions:

(1) The recipient agrees that neither it nor any operator of project equipment will engage in school bus operations in competition with private school bus operators except as provided herein.

(2) The recipient, or any operator of project equipment, agrees to promptly notify the Administrator of any changes in its operations which might jeopardize the continuation of an exemption under §605.11.

(3) The recipient agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Transit Administration regulations or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).

(4) The recipient agrees that the project facilities and equipment shall be used for the provision of mass transportation services within its urban area and that any other use of project facilities and equipment will be incidental to and shall not interfere with the use of such facilities and equipment in mass transportation service to the public.”

---

---

**SB2. If the recipient operates tripper service, does it meet FTA requirements?**

**BASIC REQUIREMENT**

Tripper service operated to accommodate the needs of school students and personnel must be open to the public, stop only at the operator's regular service stops with only de minimus route alterations, operate with regular route service, and not carry designations such as “school bus” or “school special.”

**APPLICABILITY**

All recipients that provide bus service

## EXPLANATION

Recipients are permitted to provide school tripper service to accommodate the needs of school students and personnel. The school bus regulation defines school tripper service as regularly scheduled mass transportation service that is open to the public and is designed or modified to accommodate the needs of school students and personnel. Tripper service allows a recipient to:

- Utilize various fare collections or subsidy systems
- Modify the frequency of service
- Make de minimus route alterations from route paths in the immediate vicinity of schools to stops located at or in close proximity to the schools

Buses used in tripper service must:

- Be open and promoted to the public
- Not carry designations such as “school bus” or “school special”
- Stop at regular bus stops

School tripper service should operate and look like all other regular service. All routes traveled by tripper buses must be within the regular route service as indicated in the published route schedules. Schedules listing tripper routes should be on the recipient’s regular published schedules or on separately published schedules that are available to the public with all other schedules, including on the website. Demand-response service does not qualify for the tripper service exception.

## INDICATORS OF COMPLIANCE

- a. Does the recipient operate tripper service to transport school students or personnel? If no, move to the next question.*
- b. If the recipient provides tripper service:*
  - *Is the tripper service open and promoted to the public?*
  - *Do the buses used in tripper service carry designations such as “school bus” or “school special”?*
  - *Does the tripper service stop at regular bus stops with only de minimus route alterations from route paths in the immediate vicinity of schools to stops located at or in close proximity to the schools?*

## DETERMINING COMPLIANCE

Obtain and review prior review documentation in OTrak to verify if the recipient has provided tripper service. Review the recipient’s website, route maps, brochures, and timetables to determine if information on school tripper service is made available to the public. If the information is not available from the recipient’s website, follow up with the recipient for copies of route maps, brochures, and timetables. Review information from the recipient on what is displayed on destination signs on buses on school tripper routes.

During the tour of facilities, look for buses that carry designations such as “school bus” or “school special.” If time permits, look at buses used in school tripper service during pullout.

## POTENTIAL DEFICIENCY DETERMINATION

The recipient is deficient if it operates school tripper service that is not open to the public, does not stop at regular bus stops with only de minimus route alterations, or carries designations such as “school bus” or “school special.”

DEFICIENCY CODE SB2-1: Tripper violations

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit evidence to the FTA regional office that it has discontinued school tripper service that does not meet the FTA requirements or has modified the service to comply with FTA requirements.

**GOVERNING DIRECTIVES**

49 CFR Part 605, Subpart A: General §605.3 Definitions

“Tripper service means regularly scheduled mass transportation service which is open to the public, and which is designed or modified to accommodate the needs of school students and personnel, using various fare collections or subsidy systems. Buses used in tripper service must be clearly marked as open to the public and may not carry designations such as “school bus” or “school special.” These buses may stop only at a recipient or operator’s regular service stop. All routes traveled by tripper buses must be within a recipient’s or operator’s regular route service as indicated in their published route schedules.”

49 CFR Part 605, Subpart B: School Bus Agreements §605.13 Tripper Service

“The prohibition against the use of buses, facilities and equipment funded under the Acts shall not apply to tripper service.”

Final Policy Statement on FTA’s School Bus Operations Regulations” 73 FR 53384 September 16, 2008  
IV. FTA Final Policy -Tripper Service

“With respect to a recipient’s regularly scheduled public transportation service, FTA shall interpret the definition of “tripper service” under 49 CFR 605.3(b), as it historically has interpreted that definition, to allow a recipient to (1) utilize “various fare collections or subsidy systems,” (2) modify the frequency of service, and (3) make de minimis route alterations from route paths in the immediate vicinity of schools to stops located at or in close proximity to the schools.”

---

---

**SB3. Does the recipient ensure that subrecipients, contractors and lessees that operate school bus service, do so in accordance with the FTA regulations?**

**BASIC REQUIREMENT:**

The recipient is responsible for ensuring that contractors, lessees and subrecipients comply with school bus regulations.

**APPLICABILITY**

All recipients

**EXPLANATION**

The recipient must ensure that exclusive school bus service operated by subrecipients is provided under one of the statutory exemptions and that school bus service provided by subrecipients, contractors, and lessees does not involve FTA-funded equipment or facilities. Private contractors and lessees can operate school bus service with locally-funded assets.

**INDICATORS OF COMPLIANCE**

- a. *How does the recipient perform oversight of contractors and lessees that provide school bus service?*
  
- b. *How does the recipient perform oversight of subrecipients that provide school bus service?*

**DETERMINING COMPLIANCE**

Obtain and review prior review documentation in OTrak to ascertain if any contractors/lessees or subrecipients with FTA-funded assets have operated school bus service. Obtain and review the

recipient's oversight procedures and materials (i.e., reports, questionnaires, and checklists) for information relating to how it performs oversight of the school bus requirements. Follow up with the recipient as to whether there are any contractors/lessees or subrecipients with FTA-funded assets that operate school bus service.

Onsite, review the oversight files for the contractor(s), lessee(s) and/or subrecipient(s) to be visited. During the visit to the contractor(s)/lessee(s) and or subrecipient(s), discuss if school bus service is provided with FTA-funded assets. Tour facilities to determine if locally-funded assets, used in school bus service, are stored in FTA-funded facilities or if FTA-funded assets are used in school bus service.

### **POTENTIAL DEFICIENCY DETERMINATIONS**

The recipient is deficient if it does not ensure that contractors and lessees comply with the school bus service requirements.

DEFICIENCY CODE SB3-1: Insufficient oversight of contractors and lessees who operate school bus service with FTA-funded assets

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA regional office procedures for ensuring that contractors and lessees comply with the school bus service requirements and evidence that the procedures have been implemented.

The recipient is deficient if it does not ensure that subrecipients comply with school bus service requirements.

DEFICIENCY CODE SB3-2: Insufficient oversight of subrecipients who operate school bus service

SUGGESTED CORRECTIVE ACTION 1: The recipient must submit to the FTA regional office procedures for ensuring that subrecipients comply with the school bus service requirements and evidence that the procedures have been implemented.

SUGGESTED CORRECTIVE ACTION 2: The recipient must work with the subrecipient to obtain through the FTA regional office FTA approval for providing school bus service.

### **GOVERNING DIRECTIVES**

#### 2 CFR 200.318(b)

"Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders."

#### 2 CFR 200.331 Requirement for pass-through entities

"All pass-through entities must: ... (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means."

---

---

### **SB4. Does the recipient ensure that subrecipients, contractors and lessees operate tripper service in accordance with the FTA regulations?**

## **BASIC REQUIREMENT**

The recipient must ensure that school tripper service operated by subrecipients, contractors, and lessees operates and looks like all other regular service.

## **APPLICABILITY**

All recipients

## **EXPLANATION**

The recipient is responsible for overseeing contractors, lessees and subrecipients that operate FTA-funded tripper service to ensure that service is open to the public, stops only at regular service stops with only de minimus route alterations, operates with regular route service, and does not carry designations such as “school bus” or “school special.”

## **INDICATORS OF COMPLIANCE**

- a. *How does the recipient perform oversight of contractors and lessees that provide FTA-funded tripper service?*
  
- b. *How does the recipient perform oversight of subrecipients that provide FTA-funded tripper service?*

## **DETERMINING COMPLIANCE**

Obtain and review prior year Recipient Information Request (formerly known as the review package in OTrak to ascertain if any contractors/lessees or subrecipients with FTA-funded assets operate tripper service. Obtain and review the recipient’s oversight procedures and materials (i.e., reports, questionnaires, and checklists) for information relating to oversight of tripper service requirements. Review the contractors’, lessees’ and subrecipients’ to be visited websites, route maps, and schedules to determine if tripper service is provided in compliance with the regulations. If the information is not available from the contractors’, lessees’ or subrecipients’ website, follow up with the recipient for copies of such in preparation for the site visit.

Onsite, review the oversight files for the contractor(s), lessee(s), and subrecipient(s) to be visited. During the visit to the contractor(s), lessee(s), and subrecipient(s) discuss the provision of tripper service to determine if it is operated in compliance with FTA requirements. Tour facilities to look for buses that carry designations such as “school bus” or “school special.” If time permits, look at buses used in school tripper service during pullout.

## **POTENTIAL DEFICIENCY DETERMINATION**

The recipient is deficient if it does not ensure that subrecipients, contractors, and lessees comply with the tripper service requirements.

DEFICIENCY CODE SB4-1: Insufficient oversight of subrecipients, contractors, and lessees who operate tripper service

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA regional office procedures for ensuring that subrecipients, contractors, and lessees comply with the tripper service requirements and evidence that the procedures have been implemented.

## **GOVERNING DIRECTIVES**

2 CFR 200.318(b)

“Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.”

## 2 CFR 200.331 Requirement for pass-through entities

“All pass-through entities must: ... (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.”

---

---

### **ISSUES/AREAS OF CONCERN FOR FTA AWARENESS**

1. Has FTA received any complaints against the recipient or any of its subrecipients, contractors, or lessees alleging noncompliance with school bus regulations?
2. Does it appear that any subrecipients, contractors, or leases are providing non-compliant school bus or tripper service?
3. Did background research or site visit observations reveal any other potential school bus/tripper service issues or concerns not covered above?

### **REFERENCES**

1. 2 CFR Parts 200 and 1201, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"
2. 49 CFR Part 605, "School Bus Operations"
3. "Final Policy Statement on FTA's School Bus Operations Regulations" 73 FR 53384 September 16, 2008

### **USEFUL WEBLINKS**

1. FTA School Bus Operations Home Page
2. [https://www.transit.dot.gov/faq?combine=&shs\\_term\\_node\\_tid\\_depth=2186](https://www.transit.dot.gov/faq?combine=&shs_term_node_tid_depth=2186)

***PAGE INTENTIONALLY LEFT BLANK***