

# 19. SECTION 5307 PROGRAM REQUIREMENTS

## PURPOSE OF THIS REVIEW AREA

For fixed-route service supported with Section 5307 assistance, fares charged seniors, persons with disabilities or an individual presenting a Medicare card during off peak hours will not be more than one half the peak hour fares.

Recipients are expected to have a written, locally developed process for soliciting and considering public comment before raising a fare or carrying out a major transportation service reduction.

Recipients shall develop, publish, afford an opportunity for a public hearing on, and submit for approval, a program of projects (POP).

## QUESTIONS TO BE EXAMINED

1. Does the recipient have a written agreement with the metropolitan planning organization (MPO) that determines their mutual responsibilities in carrying out the metropolitan transportation planning process?
2. Does the recipient provide information about its available funding under Section 5307 to the public and provide for public involvement in the in the Program of Projects (POP) it proposes to undertake?
3. Does the recipient have a written policy that describes the public comment process on increases in the basic fare structure or implementing a major service reduction that addresses the required elements?
4. For Section 5307-funded fixed-route service, does the recipient charge no more than half the peak-hour fare for seniors, persons with disabilities, and Medicare cardholders during off-peak hours?
5. Does the recipient ensure that subrecipients, contractors, and lessees that receive Section 5307 funds or use Section 5307-funded property comply with Section 5307 half-fare and public comment requirements?

## INFORMATION NEEDED FROM RECIPIENT

### Recipient Information Request

- Half-fare application, if applicable
- Special identification card, if applicable
- Copy of written policy for soliciting public comment prior to implementing a fare increase or major service reduction
- List of fare increases and major service reductions implemented since last review with date of implementation
- Annual POP public notices for the past three years
- MPO public participation process, if utilized
- Consultative process, including how coordination is performed with interested parties
- List of complaints received from interested parties in relation to the POP consultative process, if applicable
- Annual proposed POPs and final proposed POPs, if amended
- Signed recipient and MPO agreement
- Section 5307 annual security expenditures for the review period (by award year), along with documentation that supports the expenditures
- Documentation that current security measures meet the agency needs, if applicable

### Recipient Follow-up

- Samples of notices to solicit public comment (e.g., newspaper classifieds, website, etc.)

- Description of procedures for how public comment will be considered regarding decisions on implementing fare increases and major service reductions
- Internal documentation of how public comment was considered prior to implementing any fare increases or major service reductions
- Sample documentation of public hearings (board minutes, public meeting minutes, news articles, etc.)
- Staff summaries, internal memoranda documenting public participation and comments
- Internal working documents showing original plans and actual plans that were implemented for major services reductions
- Documentation for monitoring fare increases and major service reductions implemented by subrecipients
- Most recent MPO adopted public participation plan, if applicable
- MPO TIP public notice(s) for the past three years, if applicable
- Executive summary of the results of the most recent Planning Certification Review

**5307:1. Does the recipient have a written agreement with the MPO that determines their mutual responsibilities in carrying out the metropolitan transportation planning process?**

**BASIC REQUIREMENT**

Recipients and entities responsible for the transportation planning and programming processes in metropolitan planning areas are required to determine their mutual responsibilities in carrying out the metropolitan transportation planning process in a written agreement.

**APPLICABILITY**

Section 5307 recipients who did not receive a Planning Certification Review during the review period

**DETAILED EXPLANATION FOR REVIEWER**

The planning regulations require that the MPO, the state(s), and the public transportation operator(s) cooperatively determine their mutual responsibilities in carrying out the metropolitan transportation planning process. These responsibilities shall be clearly identified in written agreements among the MPO, the state(s), and the public transportation operator(s) serving the metropolitan planning area. Written agreements are required to address at least: 1) the recipient's responsibilities, 2) the development and sharing of information for financial plans, and 3) the development of the annual listing of obligated projects. If the recipient intends to rely on the MPO's public involvement process to meet Section 5307 public involvement requirements, FTA encourages it to state so in the agreement.

**INDICATORS OF COMPLIANCE**

- Is the recipient a party to a written agreement with the state, MPO, and providers of public transportation?*
- If the recipient is a party to a written agreement with the state, MPO, and providers of public transportation, does the agreement address:*

<i>The recipient's responsibilities in carrying out the metropolitan transportation planning process?</i>	
<i>The development and sharing of information for financial plans?</i>	

<i>The development of the annual listing of obligated projects?</i>	
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### **INSTRUCTIONS FOR REVIEWER**

Request from the regional office a copy of the executive summary of the results of the recipient's most recent Planning Certification Review. Obtain and review the signed agreement to ensure the required elements are included. Ensure that the recipient has signed the agreement. If the MPO is an operating entity, consult with the regional office to ascertain who the providers of public transportation are in the metropolitan planning area. Ensure that providers of public transportation and the state(s) are parties to the written agreement.

### **POTENTIAL DEFICIENCY DETERMINATIONS**

The recipient is deficient if it does not have an agreement with the MPO.

DEFICIENCY CODE 5307:1-1: No current agreement

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit to the FTA regional office a fully executed agreement that specifies the cooperative procedures for carrying out transportation planning and programming and addresses the recipient's responsibilities, the development and sharing of information for financial plans, and the development of the annual listing of obligated projects.

The recipient is deficient if the agreement does not address the recipient's responsibilities, the development and sharing of information for financial plans, or the development of the annual listing of obligated projects.

DEFICIENCY CODE 5307:1-2: Deficiencies in agreement with MPO

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit to the FTA regional office a fully executed agreement that specifies the cooperative procedures for carrying out transportation planning and programming and addresses the recipient's responsibilities, the development and sharing of information for financial plans, and the development of the annual listing of obligated projects.

The recipient is deficient if it is an MPO and the providers of public transportation and the state(s) are not parties to the agreement.

DEFICIENCY CODE 5307:1-3: All parties not signatory to the MPO agreement

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit to the FTA regional office a fully executed agreement that specifies the cooperative procedures for carrying out transportation planning and programming and addresses the recipient's responsibilities, the development and sharing of information for financial plans, and the development of the annual listing of obligated projects and includes all applicable parties as signatories.

### **GOVERNING DIRECTIVE**

23 CFR 450.314 Metropolitan Planning Agreement

(a) The MPO(s), the State(s), and the providers of public transportation shall cooperatively determine their mutual responsibilities in carrying out the metropolitan transportation planning process. These responsibilities shall be clearly identified in written agreements among the MPO(s), the State(s), and the providers of public transportation serving the MPA. To the extent possible, a single agreement among all responsible parties should be developed. The written agreement(s) shall include specific provisions for the development of financial plans that support the metropolitan transportation plan

(see §450.324) and the metropolitan TIP (see §450.326), and development of the annual listing of obligated projects (see §450.334).

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**5307:2. Does the recipient provide information about its available funding under Section 5307 to the public and provide for public involvement in the in the POP it proposes to undertake?**

**BASIC REQUIREMENT**

Recipients must provide for public involvement in the development of the Section 5307 POP.

**APPLICABILITY**

Section 5307 recipients

**DETAILED EXPLANATION FOR REVIEWER**

Both the planning regulations and Section 5307 require public participation. The planning regulations require that the metropolitan transportation planning process include a proactive participation plan that provides complete information, timely public notice, and reasonable public access to key decisions, and supports early and continuing involvement of the public in developing plans and TIP. (The recipient's projects must be programmed in the TIP to be eligible for funding.) Section 5307 recipients also have specific requirements for public participation related to the POP. POP public participation requirements do not apply to funds flexed into a Section 5307 award.

FTA allows a recipient to rely on the locally adopted public participation requirements for the TIP in lieu of the process required in the development of the POP if the recipient has coordinated with the MPO and ensured that the public is aware that the TIP development process is being used to satisfy the POP public participation requirements. To comply with the latter requirement:

- The MPO must have an adopted public participation plan.
- The TIP document (public participation plan, notice, or TIP must state that public notice of public participation activities and time established for public review of and comments on the TIP will satisfy the POP requirements. The recipient may rely on the MPO public participation process for the TIP even when notices are published less than annually.

FTA encourages recipients to state in the agreement with the MPO that it relies on the public participation process for the TIP to satisfy Section 5307 public involvement requirements for the POP.

If the recipient relies on its own process to satisfy POP public participation requirements, it must:

- Make available to the public information concerning the amount of funds available under the Section 5307 program and the POP that the recipient proposes to undertake with such funds.
- Develop a proposed POP 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.
- Publish the proposed POP in sufficient detail and in such a manner as to afford affected citizens, private transportation providers, representatives of welfare recipients and low-income individuals, and, as appropriate, local elected officials, reasonable and adequate opportunity to examine the proposed program and to comment on it and on the performance of the recipient. If the service area includes a significant number of persons with limited English proficiency, the recipient should distribute the notice to these populations. (See the Title VI section of this guide).

- Provide an opportunity for a public hearing to obtain the views of the public on the proposed POP. Most recipients include in the public notice an announcement that the proposed POP is available for review and that, if requested, a public hearing will be held. Some local laws or recipient policies make the public hearing mandatory.
- Ensure that the proposed POP provides for the coordination of Section 5307 public transportation services with transportation services assisted with other Federal sources. Coordination may occur at many levels, from simple information sharing to total consolidation of services. Participation in the public transportation-human services planning process satisfies this requirement.
- 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, in preparing the final POP.
- Make the final POP available to the public.

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.

**INDICATORS OF COMPLIANCE**

- a. *Does the designated or direct recipient rely on the MPO’s public participation process for the Transportation Improvement Program (TIP) to meet Section 5307 POP public participation requirements? If no, go to indicator b.*
  - 1) *Does the MPO have an adopted public participation plan that describes the minimum required elements of its public participation process?*

Element	Addressed in Plan (page #)
Providing adequate public notice of public participation activities and time for public review and comment at key decision points, including a reasonable opportunity to comment on the proposed metropolitan transportation plan and the TIP	
Providing timely notice and reasonable access to information about transportation issues and processes	
Employing visualization techniques to describe metropolitan transportation plans and TIPs	
Making public information (technical information and meeting notices) available in electronically accessible formats and means, such as the World Wide Web	
Holding any public meetings at convenient and accessible locations and times	
Demonstrating explicit consideration and response to public input received during the development of the metropolitan transportation plan and the TIP	

Element	Addressed in Plan (page #)
Seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services	
Providing an additional opportunity for public comment, if the final metropolitan transportation plan or TIP differs significantly from the version that was made available for public comment by the MPO and raises new material issues that interested parties could not reasonably have foreseen from the public involvement efforts	
Coordinating with the statewide transportation planning public involvement and consultation processes under subpart B of this part	
Periodically reviewing the effectiveness of the procedures and strategies contained in the participation plan to ensure a full and open participation process	

2) *Do the TIP document(s) state 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 Program?*

b. *If the recipient uses its own public participation process, does it meet the requirements listed in 49 U.S.C. 5307(b)(1) through (7) concerning public participation in development of a POP?*

1) *How does the recipient make available to the public information concerning the amount of funds available under the Section 5307 Program and the POP that the recipient proposes to undertake with such funds?*

2) *How does the recipient develop a proposed POP 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?*

3) *Is the proposed POP published in sufficient detail and in such a manner as to afford affected members of the public, private transportation providers, representatives of welfare recipients and low-income individuals, and, as appropriate, local elected officials, reasonable and adequate opportunity to examine the proposed program and to submit comments on the proposed program and on the performance of the recipient?*

POP Elements	Comments
A brief description of the projects	
Sub-allocation among public transportation providers, if applicable	

POP Elements	Comments
Total project costs	
Federal share for each project	

- 4) *Does the recipient provide an opportunity for a public hearing to obtain the views of the public on the proposed POP?*
- 5) *How did the recipient ensure that the proposed POP provides for the coordination of Section 5307 public transportation services with transportation services assisted with other Federal sources?*
- 6) *How are comments and views received considered, 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, in preparing the final POP?*
- 7) *How is the final POP made available to the public?*

**INSTRUCTIONS FOR REVIEWER**

For recipients that rely on the MPO’s public participation process: Obtain and review the MPO’s adopted public participation plan to ensure it describes explicit procedures, strategies, and desired outcomes for the required elements. Follow up with the recipient if unable to locate the required items in the plan.

Review the MPO’s adopted public participation plan, TIPs, and TIP public notice(s) to determine which TIP document(s) states that 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 Program. The TIP document does not have to be verbatim, however, elements of the statement should be consistent with the integrity of the requirement.

For recipients that use their own public participation process: Review the public notices for the past three years to ensure that they address the required items. Obtain and review documentation that describes the consultative process and obtain documentation (i.e., meeting agendas, internal communications, information regarding the MPO planning process, documents relating the public transit-human services coordinated planning process, etc.) to ensure that the recipient consulted 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. Obtain and review documentation, such as a public notice, to ensure that the recipient provided an opportunity for a public hearing. Obtain and review documentation of the consultative process and comments received to ensure that the proposed POP provides for the coordination of Section 5307 service with transportation services assisted with other Federal sources. Obtain and review written comments received, transcripts of public hearings and meetings, and internal reports that address the comments to ensure they were considered prior to final issuance. Review board minutes and agendas of subsequent meetings to determine if the comments were presented to the Board. Follow up onsite for additional information on how the recipient’s decision makers considered any comments received.

Obtain and review the Section 5307 public notices for the past three years to determine if the final POP was made available to the public.

**POTENTIAL DEFICIENCY DETERMINATIONS**

The recipient is deficient if it relies on the MPO’s public participation process to satisfy POP public participation requirements, but the MPO does not have an adopted public participation plan that describes the minimum required elements of the public participation process.

DEFICIENCY CODE 5307:2-1: No MPO public participation plan that describes the minimum elements

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit to the FTA regional office its own process for involving the public in the development of the POP or submit a revised MPO public participation plan that addresses all required elements.

The recipient is deficient if it relies on the MPO's public participation process to satisfy POP public participation requirements, but none of the MPO's TIP documents (public participation plan, notice, or TIP) explicitly state they satisfy the Section 5307 POP requirements.

DEFICIENCY CODE 5307:2-2: TIP documents missing explicit POP statement

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit to the FTA regional office its own process for involving the public in the development of the POP or submit documentation that the process meets the requirements.

The recipient is deficient if it (1) failed to make available to the public the amount of Section 5307 funds, (2) did not develop the proposed POP in consultation with interested parties, (3) did not publish a proposed POP, (4) did not provide an opportunity for a public hearing on the proposed POP, (5) did not ensure that a proposed POP provides for the coordination of Section 5307 services with transportation assisted from other Federal sources, (6) did not consider comments received in preparing the final POP, or (7) did not make the final POP available to the public.

DEFICIENCY 5307:2-3: Elements missing in POP public participation procedures

**SUGGESTED CORRECTIVE ACTION 1:** The recipient must submit to the FTA regional office a procedure for making available to the public the amount of Section 5307 funds and evidence of its implementation.

**SUGGESTED CORRECTIVE ACTION 2:** The recipient must submit to the FTA regional office a procedure for developing the proposed POP 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, along with evidence of its implementation.

**SUGGESTED CORRECTIVE ACTION 3:** The recipient must submit to the FTA regional office a procedure for providing an opportunity for a public hearing on the proposed POP and evidence of its implementation.

**SUGGESTED CORRECTIVE ACTION 4:** The recipient must submit to the FTA regional office a procedure for providing for the coordination of Section 5307 services with transportation assisted from other Federal sources and evidence of its implementation.

**SUGGESTED CORRECTIVE ACTION 5:** The recipient must submit to the FTA regional office a procedure for considering comments received in preparing the final POP and evidence of its implementation.

**SUGGESTED CORRECTIVE ACTION 6:** The recipient must submit to the FTA regional office a procedure for publishing the proposed and final POP, along with copies of the final published POPs.

## **GOVERNING DIRECTIVE**

### **23 CFR 450.316 Interested parties, participation, and consultation**

- (a) The MPO shall develop and use a documented participation plan that defines a process for providing individuals, affected public agencies, representatives of public transportation employees, public ports, freight shippers, providers of freight transportation services, private providers of transportation (including intercity bus operators, employer-based commuting programs, such as carpool program, vanpool program, transit benefit program, parking cash-out program, shuttle program, or telework program), representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with reasonable opportunities to be involved in the metropolitan transportation planning process.
- (1) The MPO shall develop the participation plan in consultation with all interested parties and shall, at a minimum, describe explicit procedures, strategies, and desired outcomes for:
- (i) Providing adequate public notice of public participation activities and time for public review and comment at key decision points, including a reasonable opportunity to comment on the proposed metropolitan transportation plan and the TIP;
  - (ii) Providing timely notice and reasonable access to information about transportation issues and processes;
  - (iii) Employing visualization techniques to describe metropolitan transportation plans and TIPs;
  - (iv) Making public information (technical information and meeting notices) available in electronically accessible formats and means, such as the World Wide Web;
  - (v) Holding any public meetings at convenient and accessible locations and times;
  - (vi) Demonstrating explicit consideration and response to public input received during the development of the metropolitan transportation plan and the TIP;
  - (vii) Seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services;
  - (viii) Providing an additional opportunity for public comment, if the final metropolitan transportation plan or TIP differs significantly from the version that was made available for public comment by the MPO and raises new material issues that interested parties could not reasonably have foreseen from the public involvement efforts;
  - (ix) Coordinating with the statewide transportation planning public involvement and consultation processes under subpart B of this part; and
  - (x) Periodically reviewing the effectiveness of the procedures and strategies contained in the participation plan to ensure a full and open participation process.

### **FTA Circular 9030.1E, Chapter V, Section 6 Program of Projects and Public Involvement Requirements**

- d. Satisfying the Requirement for Public Participation in Development of the POP using the Transportation Improvement Program Process. Federal transit law and joint FHWA/FTA planning regulations governing the metropolitan planning process require a locality to include the public and solicit comment when the locality develops its metropolitan long-range (twenty-year) transportation plan and its (four-year) metropolitan TIP. Accordingly, FTA has determined that when a recipient follows the procedures of the public involvement process outlined in the FHWA/FTA planning regulations, the recipient satisfies the public participation requirements associated with development of the POP that recipients of Section 5307 funds must meet. See 23 CFR part 450 and 49 CFR part 613 (specifically Subpart B, "Statewide Transportation Planning," and Subpart C, "Metropolitan Transportation Planning and Programming"). 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 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 Program.

A POP is a list of projects proposed by the designated recipient to be funded from the UZA's Section 5307 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, including any suballocation among public transportation providers, total project costs, local share, and federal share for each project. 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...

- c. **Public Participation Requirements.** To receive a grant under Section 5307, a recipient must meet certain requirements concerning public participation in development of a POP and must certify to 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 metropolitan TIP and the local coordinated public transit-human service 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 Program and the POP that the recipient proposes to undertake with such funds;
- (2) Develop a proposed POP for activities the designated recipient 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;
- (3) Publish the proposed POP in sufficient detail and in such a manner as to afford affected members of the public, private transportation providers, representatives of welfare recipients and low-income individuals, and, as appropriate, local elected officials, reasonable and adequate opportunity to examine the proposed program and to 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 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, 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.

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**5307:3. Does the recipient have a written policy that describes the public comment process on increases in the basic fare structure or implementing a major service reduction that addresses the required elements?**

**BASIC REQUIREMENT**

Recipients are expected to have a written policy that describes the public comment process on increases in the basic fare structure and on major service reductions.

**APPLICABILITY**

Section 5307 recipients

## **DETAILED EXPLANATION FOR REVIEWER**

Section 5307 recipients certify annually that they have a locally developed process to solicit and consider public comment prior to raising a fare or implementing a major reduction in public transportation service. Recipients are expected to have a written policy that describes the public comment process. The recipient is responsible for defining a major service reduction. This can be defined as a standard, such as elimination of a route or reduction of "X" percent of service hours or miles.

The policy should provide an opportunity for a public hearing or meeting for any fare increase or major service reduction. It should describe how such meetings will be conducted and how the results will be considered. A public meeting is not mandatory; however, an opportunity for a public meeting in order to solicit comment must be provided. Some recipients offer an opportunity for public comment for all fare and service changes.

## **INDICATORS OF COMPLIANCE**

- a. *Does the recipient have a written policy?*
- b. *Does the recipient's written policy define a "major" service reduction?*
- c. *Does the recipient's written policy provide an opportunity for a public hearing or public meeting and describe how the recipient will conduct it?*
- d. *Does the written policy describe how the recipient will consider the results of the public hearing or public meeting in the process of changing fares and service?*
- e. *If the recipient raised fares or implemented a major service reduction since the last Comprehensive Review, did the recipient:*
  - *Follow its policy for providing an opportunity for a public hearing or public meeting for any fare increase or major service reduction? If not, what was done differently?*
  - *Follow its policy for considering the results of the public hearing or public meeting in the decision-making process? If not, what was done differently?*

## **INSTRUCTIONS FOR REVIEWER**

Review the written policy to determine if it defines a major service reduction. Review the written policy to determine if it provides an opportunity for a public hearing or public meeting and describes how the recipient will conduct it. Review the written policy for a description of how the recipient will consider the results of the public hearing or public meeting in the process of changing fares and service.

Review the recipient's website to determine if a fare increase or major service reduction was implemented over the review period. Compare current fares with the fares described in the recipient's previous review documentation. Compare the route structure described on the website with that discussed in prior review documentation. Review the Title VI section of this guide to obtain information on any fare increases or service reductions implemented since the last review. Note effective dates and the dates of public meetings, if any, to discuss the changes. Determine if an opportunity for a public hearing or public meeting was provided, either advertised on the website or submitted as part of the document request in the Title VI section of this guide. Review internal working documents (transcripts from public hearings, board minutes, staff summaries) to determine if the recipient followed its policy for considering the results of the meetings in the decision-making process. Onsite, discuss the process or any follow up items with the recipient.

## **POTENTIAL DEFICIENCY DETERMINATIONS**

The recipient is deficient if it does not have a written policy that describes the public comment process on increases in the basic fare structure or implementing a major service reduction.

DEFICIENCY CODE 5307:3-1: No written policy for public comment

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit to the FTA regional office a written policy that describes the public comment process on increases in the basic fare structure or implementing a major service reduction.

The recipient is deficient if its policy does not 1) define a major service reduction, 2) provide an opportunity for a public hearing or public meeting, 3) describe how it will conduct a public hearing or public meeting and/or describe how the recipient will conduct such meetings or 4) explain how the recipient will consider public comments.

DEFICIENCY CODE 5307:3-2: Public comment policy missing required elements

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit to the FTA regional office an amended public comment policy addressing all required elements for soliciting and considering public comments prior to a fare increase or major service reduction.

The recipient is deficient if it did not follow its policy for 1) soliciting public comment and/or 2) considering the results of public hearings or public meetings in the implementation of the final plan.

DEFICIENCY CODE 5307:3-3: Public comment process not followed

**SUGGESTED CORRECTIVE ACTION:** For the next fare increase or major service reduction, the recipient must submit to the FTA regional office documentation that it followed its policy for soliciting public comment and considering the results of public meetings or hearings in the implementation of the final plan.

## **GOVERNING DIRECTIVE**

FTA Circular 9030.1E, Chapter VI, Program Management and Administrative Requirements

1.a.(12)...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, an opportunity for a public meeting in order to solicit comment must be provided.

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## **5307:4. For Section 5307-funded fixed-route service, does the recipient charge no more than half the peak-hour fare for seniors, persons with disabilities, and Medicare cardholders during off-peak hours?**

### **BASIC REQUIREMENT**

For fixed-route service, fares charged to seniors, persons with disabilities, and Medicare cardholders during off peak hours must not be more than one half the peak hour fares.

### **APPLICABILITY**

Recipients with 5307-funded fixed-route service

### **DETAILED EXPLANATION FOR REVIEWER**

Fares charged to seniors, persons with disabilities, and Medicare cardholders during off-peak hours for Section 5307-funded fixed-route service must not be more than half the fare charged during peak hours. If there are services such as neighborhood circulator and shuttle services with fares that are different from the recipient's fare for its regular local service, separate half fares are needed for each type of service.

The requirement is applicable to fixed-route service only including:

- All fixed-route services and non-charter service to sporting events, that operate in both peak and off-peak hours and use or involve facilities and equipment financed with Section 5307 funds, whether the services are provided by the recipient directly, by a contractor, by a subrecipient, or by another entity that leases facilities and/or equipment from the recipient
- Any express and commuter service that operates beyond peak hours
- Fixed-route services for which the recipient has not defined peak hours
- Fixed-route services that operate with reduced fares in both the peak and off-peak

This requirement is not applicable to:

- Demand responsive services, including route deviation services
- Services that operate only during peak hours, such as express and commuter service
- Services that operate only in the off-peak hours (e.g., lunchtime circulators and non-charter weekend service to sporting events)
- Services funded with other FTA assistance that do not use Section 5307-funded equipment or are not operated out of Section 5307-funded facilities

A “senior” is defined by FTA as “an individual who is 65 years of age or older.” Recipients are permitted to use a definition that extends this fare to younger (e.g., 62 and over) persons. (FTA Circular 9030.1E)

Persons with disabilities are defined by FTA as persons “who by reason of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including any individual who is a wheelchair user or has semi-ambulatory capabilities), cannot use effectively, without special facilities, planning, or design, mass transportation service or a mass transportation facility.” (49 CFR 609.3) Medicare is available for people age 65 or older, younger people with disabilities, and people with end stage renal disease (permanent kidney failure requiring dialysis or transplant).

The recipient determines its peak hours. Peak hours can be seasonal. If the recipient determines it is not large enough, or demand is not strong enough, to identify or justify peak hour service, then its entire service should be defined as “off peak.” In this instance, the recipient has two options:

1. Review ridership data and determine the peak ridership hours and develop a policy for half fare, or
2. Choose not to determine a peak period and offer half fares during all hours.

The half-fare program, as applied, may require passengers to show proof of eligibility when they pay their fare in order to receive the half fare. Examples of proof of eligibility include a driver’s license, Medicare card, special identification card, and Americans with Disabilities Act (ADA) complementary paratransit eligibility card.

In order to ensure that the person presenting a Medicare card is the authorized individual, the recipient may request proof of identity (a form of identification with a photograph). There is no specific prohibition against this, provided the recipient is not asking for further proof of eligibility from the Medicare cardholder but is only checking the identity of the Medicare cardholder.

Whether or not a recipient who issues its own special identification card as the sole basis for paying the half fare, a Medicare card must be accepted as proof of eligibility. The recipient may request a photo ID to confirm identity if a passenger uses a Medicare card to confirm identity. Obtaining a special identification card must be relatively easy. For example, though not strictly prohibited, requiring individuals to travel to a single office, which may be inconveniently located, is not consistent with the intent of this requirement. The location(s) should be accessible by transit.

#### **INDICATORS OF COMPLIANCE**

- a. *Does the recipient charge a fare for seniors, persons with disabilities, and Medicare cardholders during off-peak hours? If no, move to the next question.*
- b. *How does the recipient make available to the public information on the half-fare program?*
- c. *What is the full peak-hour fare? What is the fare charged to seniors, persons with disabilities, and Medicare cardholders during off-peak hours?*
- d. *How does the recipient define peak and off-peak hours? During what hours are reduced fares available?*
- e. *Are any Section 5307-funded fixed-route services that operate during off-peak hours not included in the half fare program?*
- f. *What proof of eligibility is required for seniors, persons with disabilities and Medicare cardholders at time of boarding?*
- g. *Where can a rider obtain the agency-issued identification? Is the location(s) accessible by transit?*

#### **INSTRUCTIONS FOR REVIEWER**

Review the recipient's website and fare information to determine if half fares are offered to seniors, persons with disabilities, and Medicare cardholders. Ensure that the half fare is not more than half the full peak hour fare, including zone or transfer charges.

Review the recipient's website, fare information, system maps and half-fare application to determine if information on the half-fare program is made available to the public. Confirm that the half fare is at least offered during off-peak hours.

Review the recipient's website for the description of the half-fare program and the requirements for participation.

If the recipient requires a special identification card in order to receive the half-fare:

- Review the website, fare information, system maps, and half-fare application to determine if information on how to obtain the special identification card and eligibility for the card is made available to the public.
- Review the application procedures and requirements to verify a Medicare card is considered sufficient proof of eligibility. The recipient may require proof of identify and validation of the status of the card at the time the application is presented.
- Verify that physical locations to receive special identification cards are accessible by transit.
- Review any complaints about the special identification card procedures to determine what barriers, if any, there are to obtaining the card.

- On site, discuss the special identification card process with the recipient to ensure the process is properly implemented.

If the recipient requires passengers to show proof of eligibility when they pay their fare in order to receive the half fare, but does not require special identification cards, review the documentation required for proof of eligibility. Examples include a driver's license, Medicare card, and ADA complementary paratransit eligibility card. Where the documentation does not provide proof of identity, the recipient may require photo identification, provided the recipient is not asking for further proof of eligibility.

#### **POTENTIAL DEFICIENCY DETERMINATIONS**

The recipient is deficient if it charges more than one half the peak hour fares during off-peak hours on any applicable service.

DEFICIENCY CODE 5307:4-1: Half fare not offered on applicable services

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit to the FTA regional office a plan and schedule for implementing a half-fare program and/or extending half fares to all Section 5307-funded services, along with documentation that it has implemented the program.

The recipient is deficient if it does not make available to the public information on the half-fare program, eligibility requirements, and/or how to apply for a special identification card.

DEFICIENCY CODE 5307:4-2: Half-fare public information not provided

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit to the FTA regional office evidence that it has informed the public of its half-fare program, eligibility requirements, and/or how to apply for a special identification card.

The recipient is deficient if it does not accept a Medicare card as proof of eligibility.

DEFICIENCY CODE 5307:4-3: Medicare card not accepted for half-fare eligibility

**SUGGESTED CORRECTIVE ACTION:** The recipient must submit to the FTA regional office a plan to accept the Medicare card as proof of eligibility for the half fare, along with evidence of its implementation.

#### **GOVERNING DIRECTIVE**

49 U.S.C 5307(d) Grant Recipient Requirements (1)(D)

...will ensure that elderly and handicapped individuals, or an individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq., 1395 et seq.), will be charged during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section not more than 50 percent of the peak hour fare.

FTA Circular 9030.1E, Chapter VI, Program Management and Administrative Requirements, Section 1 Certifications Required by 49 U.S.C. 5307

a. (6) Fares Charged to Seniors and Persons with Disabilities During Nonpeak Hours. According to 49 U.S.C. 5307(c)(1)(D), a recipient must certify that the fares charged to seniors, individuals with disabilities, or individuals presenting a Medicare card during nonpeak hours, for transportation using or involving a facility or equipment of a project financed under this section, 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. 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 to facilitate the half-fare application process, a transit agency may request that the applicant validate the status of the card at the time the half-fare application is presented.

49 CFR 609.23 Appendix A to Part 609 - Elderly and Handicapped

9. *Question:* Can the operator require that elderly and handicapped persons come to a central office to register for an off-peak half-fare program?

*Answer:* FTA strongly encourages operators to develop procedures which maximize the availability of off-peak half-fares to eligible individuals. Requiring individuals to travel to a single office which may be inconveniently located is not consistent with this policy, although it is not strictly prohibited. FTA reserves the right to review such local requirements on a case-by-case basis.

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**5307:5. Does the recipient ensure that subrecipients, contractors, and lessees that receive Section 5307 funds or use Section 5307-funded property comply with Section 5307 half-fare and public-comment requirements?**

**BASIC REQUIREMENT**

The recipient must ensure that subrecipients, contractors, and lessees that receive Section 5307 funds or use Section 5307-funded property comply with Section 5307 half-fare and public-comment requirements.

**APPLICABILITY**

Section 5307 recipients with Section 5307 subrecipients, contractors, and lessees

**DETAILED EXPLANATION FOR REVIEWER**

The recipient must ensure that Section 5307 subrecipients, contractors, and lessees have a process that is followed for obtaining and considering public comment for fare increases and major service reductions. Either the recipient or its subrecipients, contractors, or lessees are expected to have a written policy that describes the public comment process.

The recipient is also responsible for ensuring that subrecipients, contractors, and lessees that operate services comply with half-fare requirements where applicable. The oversight program should ensure that:

- A half fare is offered for applicable services during off peak hours
- The definition of off-peak hours is reasonable
- Identification requirements allow eligible persons to obtain the half fare, and internal and public fare information show the half fare and eligibility, including Medicare cardholder eligibility

**INDICATORS OF COMPLIANCE**

- a. *How does the recipient ensure that contractors and lessees comply with half-fare and public comment requirements?*
- b. *How does the recipient ensure that Section 5307 subrecipients comply with half-fare and public comment requirements?*

**INSTRUCTIONS FOR REVIEWER**

Review sample subrecipient agreements, contracts, and lease agreements for a discussion of the direction given to subrecipients, contractors or lessees regarding compliance with the half-fare and public comment requirements. Review the recipient's oversight procedures and oversight materials (i.e.,

questionnaires and checklists) for evidence that the recipient ensures compliance with half-fare and public comment requirements.

During the site visit to the recipient, review the oversight files for the entities to be visited to determine if the recipient addresses the half-fare and public comment requirements and followed up on any findings. Determine if the recipient reviewed the public comment policies for the required elements. If not, review the policies for the required elements.

Prior to the site visit to the entities, review the websites for the subrecipient, contractor, and/or lessee to be visited for information on the half-fare program. During the site visits to the entities, discuss the half-fare program and public comment policy and their implementation. Follow-up with the recipient for information if not available on the subrecipient's contractor's, or lessee's website(s). If the subrecipient, contractor or lessee has fare and service policies that are different from the recipient, review the public comment policies for fare increases and major service reductions for the subrecipient, contractor, and lessee to be visited to determine if they address the required items.

### **POTENTIAL DEFICIENCY DETERMINATIONS**

The recipient is deficient if it does not ensure that subrecipients, contractors, and lessees that operate Section 5307 service comply with public comment requirements.

DEFICIENCY CODE 5307:5-1: Insufficient oversight of fare increases and major service reductions

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA regional office procedures for ensuring that subrecipients, contractors, and lessees comply with public comment requirements and evidence of their implementation.

The recipient is deficient if it does not ensure that subrecipients, contractors, and lessees that operate fixed-route service comply with the Section 5307 half-fare requirements.

DEFICIENCY CODE 5307:5-2: Insufficient oversight of half fare

SUGGESTED CORRECTIVE ACTION: The recipient must submit to the FTA regional office procedures for ensuring that subrecipients, contractors, and lessees comply with half-fare requirements and evidence of their implementation.

### **GOVERNING DIRECTIVE**

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 Requirements 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:
  - (1) Reviewing financial and performance reports required by the pass-through entity.
  - (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.

- (3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.

*FTA Circular 5010.1E, Chapter II, Section 3. Roles and Responsibilities of the Management of Awards*

Recipients are responsible for the day-to-day management of their Awards that provide assistance for eligible activities or projects...

- a. **Recipient Role.** In addition to FTA's responsibility to monitor FTA Awards and the federally assisted projects thereunder, recipients must monitor federally assisted activities to ensure compliance with applicable federal requirements. This includes the administration and management of the Award in compliance with federal regulations, the Grant or Cooperative Agreement, and applicable FTA circulars...

The recipient's responsibilities include, but are not limited to, actions that:

- (2) Provide administrative and management support of project implementation;
- (3) Provide, directly or by contract, adequate technical inspection and supervision by qualified professionals of all work in progress;
- (4) Ensure conformity to Grant Agreements and Cooperative Agreements, applicable statutes, codes, ordinances, and safety standards; ...
- (7) Ensure compliance with FTA and federal requirements by agencies, consultants, contractors, and subcontractors working under approved third-party contracts or inter-agency agreements; ...

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

1. If the recipient is located in a designated TMA (population 200,000 or more), when was the last Planning Certification Review completed by the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA)?
  - a. Did the recipient participate in the review?
  - b. Are there any outstanding corrective actions from the Planning Certification Review that pertain to the recipient?
2. If the recipient is not in a TMA (area with population under 200,000), are there any outstanding corrective actions from the metropolitan planning or statewide planning findings that pertain to the recipient?
3. Does the recipient's definition of major service reduction appear reasonable? Is it consistent with the definition of major service changes in the recipient's Title VI plan?
4. Does the recipient appear to make it difficult to receive a half-fare special identification card?
5. Did background research or site visit observations reveal any other potential issues or concerns about not covered above about the recipient's public involvement/comment processes, half fare, security expenditures, associated transit improvement expenditures, or procedures for overseeing subrecipient compliance with these requirements?

#### **REFERENCES**

1. 23 U.S.C. Section 134, Federal Aid Highways, "Metropolitan Transportation Planning"
2. 49 U.S.C. Chapter 53, Federal Transit Laws

3. 2 CFR Parts 200 and 1201, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"
4. 23 CFR Part 450, "Planning Assistance and Standards"
5. FTA Circular 9030.1E, "Urbanized Area Formula Program: Program Guidance and Application Instructions"

**USEFUL WEB LINKS**

1. Major Policy and Planning Issues
2. Planning Index: A to Z
3. Planning Certification Reviews
4. Transportation Planning Capacity Building
5. National Transit Institute (NTI) Courses

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