

# MTA OFFICE OF LOCAL TRANSIT SUPPORT 5310 | PROGRAM MANUAL

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## MARYLAND TRANSIT ADMINISTRATION

Office of Local Transit Support  
6 St. Paul Street  
Baltimore, MD 21202





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# Chapter 1 - Introduction

## PURPOSE OF THE 5310 MANUAL

This 5310 Program Manual was developed to provide comprehensive guidance on Federal and State rules and regulations pertaining to the Federal Transit Administration (FTA) Enhanced Mobility of Seniors and Individuals with Disabilities Program (Section 5310) that is administered through the Maryland Transit Administration (MTA) Office of Local Transit Support (OLTS). The goal of the Section 5310 program is to improve mobility for seniors and individuals with disabilities by removing barriers to transportation services and expanding the transportation mobility options available. The Maryland Section 5310 program provides grant funds for capital and operating expenses to recipients for public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable, as well as for alternatives to public transportation projects that assist seniors and individuals with disabilities with transportation.

## Authority for the Program

The Section 5310 program is authorized under the provisions set forth in the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21), which was enacted on July 6, 2012, and reauthorized under the Fixing America's Surface Transportation (FAST) Act, which was signed into law on Dec. 4, 2015. These provisions authorize the U.S. Secretary of Transportation to apportion funds to each State for grants under this program.

In Maryland, the MTA of the Maryland Department of Transportation (MDOT) has been designated by the Governor to receive these funds and administer the program in accordance with State and Federal laws, statutes, and regulations.<sup>1</sup>

The MTA is the direct recipient for these funds, and in turn provides grants under these programs to local organizations, referred to by the FTA as “**subrecipients.**” MTA is responsible for informing the subrecipients of their obligations under the FTA programs, as well as for oversight of the subrecipients' compliance with the requirements.

The MTA also administers the previously awarded Section 5310, Job Access and Reverse Commute (JARC) and New Freedom funds allocated to Maryland, except for

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<sup>1</sup> The Washington Metropolitan Council of Governments (MWCOC) is the designated recipient of funding for the Washington Urbanized Area, which, within Maryland, includes Montgomery and Prince George's Counties.

the JARC and New Freedom funds in the Washington, DC-VA-MD Urbanized Area (these funds are administered by the Metropolitan Washington Council of Governments). With the passage of MAP-21, the JARC and New Freedom programs were consolidated into the Section 5310 program and other FTA programs. Old “legacy” JARC/New Freedom funds will be funded under the new, MAP-21 Section 5310 program as warranted.

## Who Should Use this Manual

This manual is geared for those subrecipients of Section 5310 funds in Maryland who *do not* also receive other FTA funding through MTA. In most cases these subrecipients will be affiliated with human service programs rather than public transit programs.

Those subrecipients that *do* also receive FTA funding under the Sections 5307, 5309, and/or 5311 programs (public transit funding programs) are known in Maryland as the Locally Operated Transit Systems (LOTS) and are subject to more extensive requirements which are addressed in MTA’s *Locally Operated Transit System (LOTS) Manual*.

## How to Use this Manual

If your organization has been awarded funds from the MTA under Section 5310, you are expected to:

- Become familiar with its contents. You don’t need to remember all the requirements, but you do need to know that a requirement exists for a particular topic and where to find it in the manual;
- Follow the requirements outlined for each FTA/MTA requirement applicable to the type of funding you get. Some Federal requirements apply across the board, while others are purpose-specific. See Attachment 1.A to this chapter to see which requirements are most likely to apply.
- Use the templates provided to prepare required Federal plans or programs;
- Refer to the additional resources cited where the Federal requirements are more in-depth than can be covered in this manual;
- Use the manual to answer questions you may have about a specific topic (an index is provided for this purpose); and
- Share relevant plans/programs with other members of your organization as well as any contractors who are required to follow specific requirements.

If you are unable to find the answer to a question related to MTA/FTA requirements within this manual, contact your 5310 Program Manager.

## KEY REFERENCE DOCUMENTS

In addition to this manual, subrecipients should refer to the following documents for program information and guidance.

### State Management Plan

The *Maryland State Management Plan for Section 5310 (Enhanced Mobility of Seniors and Individuals with Disabilities), Section 5316 (Job Access and Reverse Commute), and Section 5317 (New Freedom) Programs* documents the State's policies for managing these three programs. The State Management Plan was updated in 2015.

### Grant Application Packages

Application requirements are described in the current Fiscal Year edition of the Section 5310 Program application that is developed and updated on a biennial basis. Forms and instructions for completing the forms to apply can be found within each application.

MTA sends a letter announcing the availability of funding to an extensive statewide mailing list. A public notice is also published through press releases and on applicable websites announcing the availability of funding to the general public and any public or private agency interested in the program. The application packages are transmitted to Section 5310 applicants in the fall of each application cycle.

Many of the Federal and State requirements are listed within the certifications and assurances that must be signed and submitted with the Section 5310 application. These signed certifications and assurances become part of the grant agreement if awarded. The certifications and assurances are updated each grant cycle to reflect the FTA's Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements, published in the *Federal Register* early in each Federal Fiscal Year. In signing these, your organization is agreeing to meet these requirements (and is legally bound to do so) for the entire life of the grant/vehicle useful life. This manual provides information on what your organization needs to do in order to comply with many of these requirements.

### Your Grant Agreement with MTA

The grant agreement is the legal document which lists the requirements which your organization is subject to as a result of receiving the grant funding. The grant agreement is a contract between MTA and your agency. It is issued after notification of a grant award. The terms *you*, *your agency*, and *human service agency* are used interchangeably throughout this manual, and when used, specifically refer to each Section 5310 subrecipient that has a 5310 grant agreement with the MTA.

## FTA Circulars

The FTA publishes a circular on each of its grant programs. The following circular pertains to the Section 5310 program:

- C 9070.1G - Enhanced Mobility of Seniors and Individuals with Disabilities Program Guidance and Application Instructions (2014)

The following circulars pertain to the legacy JARC and New Freedom programs:

- C 9045.1 - New Freedom Program Guidance and Application Instructions (2007)
- C 9050.1 - The Job Access and Reverse Commute (JARC) Program Guidance and Application Instructions (2007)

In addition, the following FTA circulars address requirements common to all FTA grants:

- C 4220.1F - Third Party Contracting Guidance (2013) - details procurement requirements (summarized in Chapter 4 of this manual).
- C 4702.1B - Title VI Requirements and Guidelines for Federal Transit Administration Recipients (2012) - details requirements related to non-discrimination in service based on race and national origin (summarized in Chapter 3 of this manual).
- C 4704.1 - Equal Employment Opportunity Program Guidelines for Grant Recipients (1988) - details requirements related to non-discrimination in employment (summarized in Chapter 3 of this manual).
- C 4710.1 - Americans with Disabilities Act (ADA): Guidance (2015) - details requirements related to complying with the ADA as well as Section 504 of the Rehabilitation Act of 1973 (summarized in Chapter 3 of this manual).
- C 5010.1D - Grant Management Requirements (2012) - details requirements related to financial management and recordkeeping.

FTA Circulars can be downloaded from the FTA website, currently starting at the following page:

<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/fta-circulars>

## The Super Circular (2 CFR Part 200)

In addition to FTA circulars, all FTA grants are subject to the requirements of 2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2014), commonly referred to as the “Super Circular.” Issued by the Office of Management and Budget (OMB), the Super Circular, contains overarching Federal requirements pertaining to financial accounting, audits, and other grants administration activities.

The Super Circular can be found in the Electronic Code of Federal Regulations at this web page:

[http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)

## ADDITIONAL RESOURCES

Section 5310 subrecipients can find helpful information, including best practices and technical assistance on many topics related to human service transportation, through these organizations, websites, and publications:

- The **Transportation Association of Maryland (TAM)** hosts an annual conference; an annual “roadeo” for drivers, training, and other events for transit and community transportation providers; and facilitates peer-to-peer assistance through online discussions. Their contact information is: website: [www.taminc.org](http://www.taminc.org), phone: 410-730-6310, toll free: 1-866-TAM-0700.
- *Maryland Transit Update*, a joint newsletter of MTA’s Maryland Rural Transit Assistance Program (RTAP) and TAM, is published quarterly in electronic format. To subscribe, contact TAM or send an email request to [bhamby@kfhgroup.com](mailto:bhamby@kfhgroup.com).
- The **Community Transportation Association of America (CTAA)** is a national organization that provides a wide array of technical assistance for community transportation providers. Assistance includes training, extensive resources on their website ([www.ctaa.org](http://www.ctaa.org)), and an annual conference. CTAA also manages several Federally-funded resource centers, including the National Center for Mobility Management.
- The **National Aging and Disability Transportation Center (NADTC)** is an FTA-funded technical assistance program working to increase access to transportation for older adults and individuals with disabilities. Many of the resources offered by the NADTC were developed under the former Project ACTION program and the former National Center on Senior Transportation. Website: <http://www.nadtc.org/>.

- The **National Center for Mobility Management (NCMM)** is an FTA-funded initiative of the United We Ride program.  
Website: <http://www.nc4mm.org/>.
- The **National Rural Transit Assistance Program (RTAP)** is an FTA-funded technical assistance program focused on rural transit services.  
Website: <http://nationalrtap.org/>

Topic-specific additional resources are also indicated throughout the manual.

## COMPLIANCE OVERSIGHT

The MTA monitors subrecipients' compliance with FTA and MTA requirements through several approaches, including:

- Comprehensive compliance reviews are periodically conducted by the MTA or the MTA's consultant on all FTA 5310 subrecipients. These reviews involve a desk review of required documentation as well as an on-site review conducted at least once over the useful life of the Federal asset.
- Other compliance reviews are periodically conducted by the MTA or the MTA's consultant that focus on specific compliance areas such as Title VI, procurement, etc.
- MTA staff will conduct periodic site visits of all subrecipients, and may perform spot-checks of compliance with Federal and State requirements, condition of vehicles, etc.
- Quarterly reports that each subrecipient submits to MTA during the life of the grant or useful life of the equipment.
- Periodic training in any one of the applicable Federal requirements. Attendance is mandatory

MTA compliance reviews and site visits are an opportunity to receive technical assistance in how to meet Federal and State requirements. MTA wants all subrecipients to be successful in their projects and to continue to be eligible for funding.

## FOR MORE INFORMATION

Questions regarding the Section 5310 program should be addressed to:

Maryland Transit Administration  
Office of Local Transit Support  
6 St. Paul Street, 9<sup>th</sup> floor  
Baltimore, MD 21202

Phone: 410-767-3790 (or your designated 5310 Program Manager)  
Fax: 410-333-0901

### **SUMMARY OF PROGRAM REQUIREMENTS:**

At the end of each chapter, you will find a summary of the Section 5310 Program requirements that you as a subrecipient of Federal Section 5310 funds must comply with. When cited at the end of each chapter, each subrecipient will be required to provide the required form, policy, plan/program or information. Some of this material will be project specific (such as vehicles) so carefully read each requirement at the end of each chapter to determine applicability. Where a requirement is specified, you will also find a sample or template attached to the end of each chapter which you may use to satisfy the requirement.





## Summary of Requirements for Section 5310 Subrecipients

Chapter Reference	Requirement	Applies to
Chapter 2	Articles of Incorporation or Letter of Determination documenting non-profit status as part of grant application	All subrecipients
Chapter 2	Public Notice announcing your transportation projects as part of grant application.	All subrecipients
Chapter 2	Notice to Transportation Providers in your service area as part of grant application	All subrecipients
Chapter 3	Title VI Program, prepared triennially and updated annually until all grants closed out and all security liens on vehicle titles have been released	All subrecipients
Chapter 3	Environmental Justice analysis	Construction projects only
Chapter 3	Providing language translation for persons with limited English proficiency (LEP) (as indicated in subrecipient's Language Assistance Plan which is part of Title VI program)	Subrecipients in communities with significant LEP populations
Chapter 3	ADA policies and procedures that meet the requirements of 49 CFR Part 37	Subrecipients that operate transportation services
Chapter 3	EEO Policy, conspicuously posted, as well as an EEO complaint procedure	All subrecipients
Chapter 3	FTA-approved EEO Program	Subrecipients with 50 or more transportation-related employees or that exceed FTA funding thresholds in a Federal fiscal year (\$1M capital or operating, or \$250K planning)
Chapter 3	DBE Program	Subrecipients using FTA funds in procurements that exceed \$250K in FTA funding in a Federal fiscal year spent in prime contracts

## ATTACHMENT 1.A

Chapter Reference	Requirement	Applies to
Chapter 4	Code of Ethics / Conduct	Subrecipients using FTA funds to procure items or services
Chapter 4	Small procurement policies and procedures for projects up to \$25,000	Subrecipients using FTA funds to procure items or services
Chapter 4	Large procurement policies and procedures for FTA-funded projects valued more than \$25,000	Subrecipients using FTA funds to procure items or services valued over \$25,000
Chapter 4	Procurement protest procedures	Subrecipients using FTA funds to procure items or services
Chapter 4	Independent Cost Estimate	Each procurement using FTA funds
Chapter 4	Documentation that subrecipient has followed its own procurement procedures for <u>each</u> procurement	Each procurement using FTA funds, per the appropriate method depending on the value of the project
Chapter 4	FTA third party procurement clauses and a checklist documenting FTA-compliant competitive procurement	Each procurement using FTA funds
Chapter 5	Local match provided in cash or cash equivalent	All projects; % and timing varies by project
Chapter 5	Quarterly Request for Payment with back-up documentation	All projects except vehicles purchased by MTA
Chapter 5	Quarterly 5310 Report	All projects for the life of the grant / until release of security lien on vehicle title
Chapter 5	Maintenance of records related to the project grant for a minimum of 3 years after close-out or release of security lien on vehicle title	All projects
Chapter 5	Annual financial audit submitted to MTA	All subrecipients for the life of the grant / until release of security lien on vehicle title
Chapter 5	Annual financial audit meeting Federal requirements	Subrecipients that exceed Federal grant spending threshold (\$750,000) in a single fiscal year
Chapter 5	Review of MTA's closeout letters and final budget statements	All subrecipients after project funds are expended or grant period ends.

## ATTACHMENT 1.A

Chapter Reference	Requirement	Applies to
Chapter 6	Annual Equipment/Vehicle Inventory until all security liens on vehicle titles have been released and all other FTA-funded equipment has met useful life	Subrecipients with FTA-funded vehicles or equipment
Chapter 6	Preventative Maintenance (PM) Program	Subrecipients with FTA-funded vehicles (or that operate FTA-funded transportation services)
Chapter 6	Driver Pre-and-Post Trip Inspection Form	Subrecipients with FTA-funded vehicles (or that operate FTA-funded transportation services)
Chapter 6	Vehicle or Equipment Asset Disposal Policy	Subrecipients with FTA-funded vehicles or other equipment
Chapter 6	Letter Requesting Lien Release/Notice of Intent to Sell FTA Vehicle	Each disposition of FTA-funded vehicle(s)
Chapter 6	Vehicle/Equipment Proceeds Form (Non-Fare Revenue Quarterly Reporting Form)	Each disposition of FTA-funded vehicles or other equipment
Chapter 6	Minimum insurance coverages, with MDOT as an additional insured party for all FTA-funded vehicles	Subrecipients with FTA-funded vehicles (or that operate FTA-funded transportation services)
Chapter 6	Vehicle Accident Program	Subrecipients with FTA-funded vehicles (or that operate FTA-funded transportation services)
Chapter 6	US DOT Number or Maryland DOT Number <b>(non-MTA/FTA requirement – for information only)</b>	Organizations that operate commercial vehicles (defined on page 6-15)
Chapter 6	Public Service Commission Permit or Operating Authority <b>(non-MTA/FTA requirement – for information only)</b>	Organizations that transport passengers “for hire” (except public transportation systems established by local government)
Chapter 6	Maryland Preventive Maintenance Program / Annual Inspections <b>(non-MTA/FTA requirement – for information only)</b>	Organizations that operate certain commercial vehicles (including 16+ passengers including driver – see page 6-17)
Chapter 7	Project included in a locally developed coordinated human services transportation plan	All 5310 grant-funded projects
Chapter 7	Certification that the subrecipient will not engage in charter services	All subrecipients
Chapter 7	Certification that the subrecipient will not engage in charter services	All subrecipients

## ATTACHMENT 1.A

Chapter Reference	Requirement	Applies to
Chapter 7	Ensure that contractors comply with applicable Section 5310 requirements	All subrecipients who contract for service operations
Chapter 8	<i>Documentation of compliance with applicable FMCSA requirements pertaining to employers of drivers of commercial vehicles (<b>non-MTA/FTA requirement – for information only</b>)</i>	<i>Employers of drivers that operate commercial vehicles meeting certain thresholds</i>
Chapter 8	Driver training program	Subrecipients with FTA-funded vehicles (or that operate FTA-funded transportation services)
Chapter 8	Drug-Free Workplace policy	All subrecipients
Chapter 8	<i>FMCSA-compliant Drug &amp; Alcohol Program (<b>non-MTA/FTA requirement – for information only</b>)</i>	<i>Employers of drivers and other safety-sensitive positions, including volunteers, that operate commercial vehicles requiring a CDL (defined on page 8-2)</i>
Chapter 8	<i>FTA-compliant Drug &amp; Alcohol Program – see Maryland LOTS Manual for details</i>	<i>Subrecipients who receive Section 5307, 5309, 5311, and/or 5339 funding (<b>not required under Section 5310</b>)</i>
Chapter 8	Cell phone/portable electronic device policy	All subrecipients
Chapter 8	Driver Pre-and-Post Trip Inspection Form	Subrecipients with FTA-funded vehicles (or that operate FTA-funded transportation services)
Chapter 8	Vehicle Accident Program	Subrecipients with FTA-funded vehicles (or that operate FTA-funded transportation services)
Chapter 8	Immediately reporting to MTA certain types of accidents and incidents (see page 8-12 for specifics)	Subrecipients with FTA-funded vehicles (or that operate FTA-funded transportation services)
Chapter 9	ITS conformity documentation	ITS projects only
Chapter 10	Construction Employee Protections	Construction projects only
Chapter 10	Transit Employee Protective Arrangements	Projects funded by flexible FTA funds transferred from other programs
Chapter 10	Certification of Restrictions on Lobbying	All subrecipients
Chapter 10	Debarment/Suspension Certification	All subrecipients

# Chapter 2 - Planning, Applying for Funding, and Public Notice Requirements

## COORDINATED PLANNING REQUIREMENTS

To be eligible for Section 5310 funding, the Federal program requires that projects funded through the Section 5310 Program be “included in a locally developed, coordinated public transit-human services transportation plan” that was “developed and approved through a process that included participation by seniors; individuals with disabilities; representatives of public, private, and nonprofit transportation and human services providers; and other members of the public.”

FTA guidance defines a coordinated public transit-human service transportation plan as one that identifies the transportation needs of individuals with disabilities, seniors, and people with low incomes, provides strategies for meeting those needs, and prioritizes transportation services for funding and implementation. Required elements of the plan are:

- An assessment of available services that identifies current transportation providers (public, private, and nonprofit);
- An assessment of transportation needs for individuals with disabilities and seniors. This assessment can be based on the experiences and perceptions of the planning partners or on more sophisticated data collection efforts, and gaps in service;
- Strategies, activities, and/or projects to address the identified gaps between current services and needs, as well as opportunities to achieve efficiencies in service delivery; and
- Priorities for implementation based on resources (from multiple program sources), time, and feasibility for implementing specific strategies and/or activities identified.

Detailed guidance from FTA on the coordinated planning requirements for the Section 5310 Program can be found on pages V-1 through V-10 in the most recent Section 5310 Program Circular (FTA C 9070.1G, issued 2014). This circular can be found on the FTA website at:

<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/enhanced-mobility-seniors-and-individuals-disabilities>

## Regional Coordination Plans

In Maryland, preparing and updating locally developed, coordinated public transit-human services transportation plans are the responsibility of five regional coordinating planning organizations.

In each region, a regional coordinating body was established to lead the coordination efforts between transit operators and human service transportation providers in the region. Each region has also established a Regional Coordinated Planning Committee to provide an ongoing forum to discuss any local transportation needs, especially those of older adults, individuals with disabilities, and people with lower incomes.

Each of the six regions has developed a Coordinated Public Transit-Human Services Transportation Plan that 1) identified the transportation needs of individuals with disabilities, elderly individuals and individuals with low incomes, 2) provided strategies for meeting those local needs, and 3) identified potential projects that correspond to each strategy.

The most recent updates to these Maryland regional plans are available via the project website: <http://www.kfhgroup.com/mdcoordinationplans.htm>.

The regional coordinating bodies are facilitated by the following organizations:

- Baltimore Region (Baltimore City and Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties): Baltimore Metropolitan Council (BMC)
- Lower Eastern Shore (Somerset, Wicomico, and Worcester Counties): Tri-County Council for the Lower Eastern Shore of Maryland
- Southern Maryland (Calvert, Charles, and St. Mary's Counties): Tri-County Council for Southern Maryland (TCCSMD)
- Upper Eastern Shore (Caroline, Cecil, Dorchester, Kent, Queen Anne's, and Talbot Counties): Maryland Upper Shore Transit (MUST)
- Western Maryland (Allegany, Frederick, Garrett, and Washington Counties): Tri-County Council for Western Maryland (TCCWMD)
- Washington Region (Montgomery and Prince George's Counties): Metropolitan Washington Council of Governments (MWCOCG)

## Participation in the Regional Coordinated Planning Process

Each coordination plan is periodically updated. Human service transportation agencies and government entities that would like to have their needs incorporated and potential projects considered for future funding are advised to participate in the planning process of the region(s) they serve. This is important to ensure that their needs and potential projects are included in future updates of their regional plan since inclusion in the plan is a requirement for funding under the Section 5310 program.

## ELIGIBLE APPLICANTS FOR FUNDING

### Designated Recipient for FTA Funding

Under the FTA Section 5310 program, MTA is the federally “designated recipient” for these funds in Maryland outside of the Washington Urbanized Area (which includes urbanized areas of Montgomery, Prince George’s, and Charles Counties). For these urbanized areas, the Metropolitan Washington Council of Governments (MWCOG) is the designated recipient. MWCOG in turn partners with MTA to award and administer funding within Maryland.

The designated recipient is responsible for determining distribution of funds in their respective coverage area (to eligible subrecipients, described in the next section) and is the direct recipient to FTA.

*Legacy programs: Prior to the passage of MAP-21, MTA was also the designated recipient for the JARC and New Freedom programs for all areas of the State except the urbanized areas of Montgomery and Prince George’s Counties. As such, MTA continues to administer the remaining funds in these legacy programs.*

As the designated recipient, the MTA submits the statewide application to the FTA, while local entities submit their applications to the MTA.

### Eligible Subrecipients

From the perspective of the FTA, the organizations which receive FTA funding under grants from the MTA are considered “subrecipients.”

Private non-profit organizations are the only eligible subrecipients for Section 5310 program funding awarded by MTA. A corporation or association determined by the Secretary of the Treasury to be an organization described by 26 U.S.C. 501(c) which is exempt from taxation under 26 U.S.C. 501(a) or one which has been determined under State law to be nonprofit and for which the designated State agency has received documentation certifying the status of the nonprofit organization.

To document their non-profit status, applicants for Section 5310 funds are required to submit with their grant application either a copy of the Articles of Incorporation filed with the Maryland Department of Assessments and Taxation, or a copy of the determination from the U.S. Internal Revenue Service documenting their organization's private, non-profit status. A sample letter of determination/article of incorporation is provided as Attachment 2.A.

*Legacy programs: There were three categories of eligible subrecipients of the remaining JARC and New Freedom program funds: private non-profit organizations, State or local governmental bodies, and public operators of public transportation services. MAP-21-era funding continues to be available to State or local governmental bodies and public operators of public transportation services through the FTA Section 5307 (urbanized) and 5311 (rural) public transportation programs in Maryland.*

## **PLANNING REQUIREMENTS FOR THE APPLICATION PROCESS**

There are several planning requirements that are specific to the application for grant funding under the Maryland Section 5310 program. These are briefly summarized below. For more information on any of these requirements, including specific deadlines for each, refer to the most recent grant application package.

### **Regional Coordinating Body Endorsement**

As part of the grant application process for Section 5310 funding in Maryland, the application must be reviewed by the regional coordinating body in the region which the service is intended to serve and endorsed for consistency with the regional coordination plan before it is submitted to the MTA.

### **Public and Transportation Operator Notice Requirements**

Prior to submission of a Section 5310 application to the MTA, the applicant must provide formal notice to the general public as well as to operator transportation providers in the region, and address comments received as a result of these notifications.

#### ***Public Notice***

Each applicant must publish a public notice in a local area-wide newspaper briefly describing the transportation services the applicant organization is proposing to provide with the vehicle or equipment for which it is applying in the application. Members of the public must be given an opportunity to submit comments on the



proposed project to the applicant, and the applicant must respond to any comments received. A sample Public Notice is provided as Attachment 2.B.

### ***Written Notification to Transportation Providers***

To ensure that the Section 5310 program does not fund projects that will duplicate or compete with existing services, all transportation providers in the proposed service area of the Section 5310 grant application must be notified in writing, by postal mail, of the intended submittal. Transportation operators to be notified include public transit operators, private transit and paratransit operators such as charter bus and taxi operators, social service operators, particularly those funded previously under the Section 5310 or other Federal programs, and specialized transit operators funded by the Maryland Statewide Special Transportation Assistance Program (SSTAP). All providers in the proposed service area must be informed of the proposed project so they can submit comments to the applicant, and the applicant must respond to any comments received. A sample Notice to Transportation Operators is provided as Attachment 2.C.

#### **SUMMARY**

Under Chapter 2 of this manual, as a subrecipient of Section 5310 funding, you will be required to provide the following information, forms or notices:

- Articles of Incorporation or Letter of Determination documenting your non-profit status as part of your grant application. A sample IRS Letter of Determination is provided as Attachment 2.A.
- A Public Notice announcing your transportation projects as part of your grant application. A sample Public Notice is provided as Attachment 2.B.
- A Notice to Transportation Providers in your service area as part of your grant application. A sample Notice to Transportation Providers is provided as Attachment 2.C.



**IRS** Department of the Treasury  
Internal Revenue Service  
P.O. Box 2508  
Cincinnati OH 45201

**ATTACHMENT 2.A**

In reply refer to: 0248206044  
Nov. 28, 2014 LTR 4168C 0  
52-1338141 000000 00  
00017421  
BODC: TE

**SAMPLE TAX EXEMPT STATUS LETTER FROM IRS. NOTE, YOUR LETTER MAY DIFFER.**

NAME Of Agency  
ADDRESS Of Agency

**0157**  
**43**

Employer Identification Number:  
Person to Contact:  
Toll Free Telephone Number:

Dear Taxpayer:

This is in response to your (date provided), request for information regarding your tax-exempt status.

Our records indicate that you were recognized as exempt under section 501(c)(3) of the Internal Revenue Code in a determination letter issued in October 1986.

Our records also indicate that you are not a private foundation within the meaning of section 509(a) of the Code because you are described in section(s) 509(a)(1) and 170(b)(1)(A)(vi).

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

Please refer to our website [www.irs.gov/eo](http://www.irs.gov/eo) for information regarding filing requirements. Specifically, section 6033(j) of the Code provides that failure to file an annual information return for three consecutive years results in revocation of tax-exempt status as of the filing due date of the third return for organizations required to file. We will publish a list of organizations whose tax-exempt status was revoked under section 6033(j) of the Code on our website beginning in early 2011.



## ATTACHMENT 2.B

### **SAMPLE PUBLIC NOTICE FORMAT**

The Sample Public Notice below is provided in full in your 5310 grant application package. Please refer to your 5310 grant application package for full instruction on how to fill it out and submit for grant application public notice purposes. This Sample Public Notice is provided here as part of the 5310 Manual as it may be used by the subrecipient should you have need for additional public notice due to project changes in the grant over its service life. You must contact your 5310 Program Manager prior to any major service affecting the use of your federally funded projects and/or programs.

The \_\_\_\_\_ (Name of Organization), a private non-profit organization located in \_\_\_\_\_ (Name of County) County, is applying to the U.S. Department of Transportation, Federal Transit Administration through the State Coordinating Committee for Human Services Transportation of the State of Maryland for financial assistance to aid in the purchase of \_\_\_\_\_ (Description of project) for \_\_\_\_\_ (total funds applied for in application) designed to meet the special transportation needs of seniors and individuals with disabilities.

The \_\_\_\_\_ (Name of Organization) plans to provide transportation services as follows:

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The detailed service plan is available for review at \_\_\_\_\_ (Location of office) from \_\_\_\_\_ (Hours and dates). Any private citizen, public or private transit or paratransit operator wishing additional information or desiring to submit comments on the project applied for or on the performance of \_\_\_\_\_ (Your agency's name) may be obtained by calling \_\_\_\_\_ (Area code and telephone number of agency office).



## ATTACHMENT 2.C

### LETTER OF NOTIFICATION TO BE SENT TO LOCAL TRANSIT AND PARATRANSIT OPERATORS BY THE 5310 APPLICANT

Company Name: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

#### Salutation:

The (Applicant Agency), a private, non-profit organization located in (Name of County) County, is applying to the U.S. Department of Transportation, through the State Coordinating Committee for Human Services Transportation of the State of Maryland for financial assistance to aid in the purchase of (Description of Project) designed to meet the special transportation needs of seniors and individuals with disabilities. For capital projects, eighty percent (80%) of the cost of this purchase is funded by the Federal Transit Administration (FTA) under the provisions of Section 5310 of the Federal Transit Act. For operating projects, fifty percent (50%) of the net operating costs are funded by the Federal Transit Administration (FTA). The remaining costs are provided by the local applicant organization. Funds available under this Federal program are limited in Maryland to private, non-profit organizations.

If a vehicle application: The (Applicant Agency) is applying for financial assistance to aid in the purchase of (Number and types of Vehicles or Equipment) designed to meet the special needs of (Types of Persons to be Served, i.e., seniors, individuals with disabilities, etc.) in (General Service Area). This (Vehicle or Equipment) will be used to (Briefly Describe Proposed Service).

Federal guidelines require that all existing local transportation operators must be given an opportunity to comment on the proposed project in the application for funds or on our service plan, should they so desire. It is not the intent of the State of Maryland when making funds available to non-profit agencies to preclude possible participation by private operators. It is the desire of the State to effectively utilize available Federal funds to improve the transportation services to seniors and individuals with disabilities through projects sponsored by private, non-profit organizations, where such service are currently unavailable, insufficient or inappropriate.

Comments must be received no later than **February 17, 2015**. If you intend to make comments on the proposed project or service plan please send your comments in writing directly to us. Send a copy of your comments to **Ms. Monica White, Regional Planner, Maryland Transit Administration, 8<sup>th</sup> Floor, 6 St. Paul Street, Baltimore, MD 21202**.

If you should need any additional information on our service proposal, please contact us.

(Name and Title)  
(Applicant Agency)  
(Address and Telephone )





# Chapter 3 - Civil Rights/Nondiscrimination

## INTRODUCTION

Federal civil rights laws protect persons from discrimination under Federal transit programs in a variety of ways. This section summarizes the non-discrimination requirements that are relevant for subrecipients of Section 5310 funding.

Federal civil rights laws pertaining to grantees include, but are not limited to:

- The Civil Rights Act of 1964, as amended, is the overriding basis for nondiscrimination on the basis of race, color, religion, sex, or national origin.
  - **Title VI** of the Civil Rights Act protects people from discrimination based on race, color, and national origin in **programs and activities** receiving Federal financial assistance. Title VI is one of the bases for numerous FTA requirements such as Environmental Justice, Disadvantaged Business Enterprise, and Equal Employment Opportunity requirements.
  - **Title VII** of the Civil Rights Act makes it illegal to discriminate against someone on the basis of race, color, religion, national origin, or sex in **employment**. Title VII together with Title VI is the basis for FTA Equal Employment Opportunity requirements.
- The Americans with Disabilities Act (ADA) of 1990 as amended, prohibits discrimination against individuals with disabilities, as does Section 504 of the Rehabilitation Act of 1973.

This chapter of the manual is divided into the following major sections:

- Title VI – Non-Discrimination in Programs and Activities
- Americans with Disabilities Act (ADA) / Section 504
- Equal Employment Opportunity (EEO)
- Disadvantaged Business Enterprise (DBE) - Non-Discrimination in Contracting Practices

## TITLE VI – NON-DISCRIMINATION IN PROGRAMS AND ACTIVITIES

**Important:** In accepting *any* amount of Federal funding, such as a Section 5310 grant, or by operating a Section 5310-funded vehicle, your organization is required to comply with Title VI of the Civil Rights Act of 1964 for *all* of your programs and activities. Receiving one dollar of Federal funds sets these requirements in motion.

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance. Specifically, the Federal transit laws, 49 U.S.C. 5332(b), provide that "no person in the United States shall on the grounds of race, color, religion, national origin, sex, or age be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any project, program or activity funded in whole or in part through financial assistance under this Act."

Title VI is the overriding basis for many of the FTA civil rights requirements and this section addresses the need for recipients of Section 5310 to ensure that they plan and operate services in a non-discriminatory manner. Planned changes in services, facilities, and policy must not result in discrimination against any segment of the community. Service and facilities planning must take into consideration the potential impact on minority populations. Minority and non-minority communities should be served with relative equity. Service cuts should not result in a relatively higher loss of service for minority communities, while service expansions should serve minority communities as well as non-minority communities.

### Applicability

All entities that receive any amount or form of Federal financial assistance are subject to Title VI. This includes primary grant recipients and all subrecipients.

The Title VI requirements introduced in this manual apply to your transportation program; however, Title VI applies institution-wide, not only to the services or programs for which the Federal funding is received. This means that all operations of your organization must be administered in a nondiscriminatory manner, and compliance with the requirements introduced in this manual does not relieve your organization of the specific requirements that apply to other programs and services you provide.

It is also important to note that Title VI applies to "persons." Title VI protections are not limited to U.S. citizens.

Fixed route operators of public transportation have additional requirements beyond those described in this manual, and organizations that operate 50 or more fixed route vehicles in peak service in urbanized areas with populations 200,000 or more have yet

more requirements. If a Section 5310 subrecipient falls into these categories, they are advised to refer to FTA Circular 4702.1B, "Title VI Requirements and Guidelines for FTA Recipients," and consult the MTA Office of Equal Opportunity Compliance Programs.

## **Basic Title VI Regulations**

Section 5310 subrecipients should familiarize themselves with the information in FTA Circular 4702.1B, "Title VI Requirements and Guidelines for FTA Recipients," which provides the guidance and instructions needed to carry out the Title VI regulations and to integrate into their programs and activities considerations in the U.S. DOT's Order on Environmental Justice (Order 5610.2 based on Executive Order 12898) and Policy Guidance Concerning Recipients Responsibilities to Limited English Proficient (LEP) Persons (70 FR 74087 based on Executive Order 13166).

As such, Title VI seeks to:

- ensure that the level and quality of transportation services provided by the organization is provided without regard to race, color, or national origin. (Note that other Federal laws and regulations also prohibit discrimination on the basis of religion, sex, age or disability, Title VI specifically addresses race, color, or national origin),
- identify and address any disproportionately high or adverse human health and environmental effects of programs including the social and economic effect of those programs and activities on minority and low-income populations,
- promote the full and fair participation of all affected populations in transportation decision-making,
- prevent the denial, reduction, or delay of benefits related to programs and activities that benefit minority or low-income populations, and
- ensure meaningful access to programs and activities by persons with limited English proficiency.

The MTA requirements mirror the Federal requirements.

All subrecipients need to take some actions in order to ensure compliance with Title VI. All systems need a written Title VI Policy and Program, although the level of detail, submission requirements, and reporting requirements are lower for demand response systems which Section 5310 providers typically operate.

## Title VI Requirements for All Section 5310 Subrecipients – General Requirements and Guidelines

To be compliant with Title VI, all subrecipients must have:

- **Certifications and Assurances** – All subrecipients must sign certifications and assurances as part of their grant application submission. By signing their certifications and assurances, the subrecipients agree to comply with the provisions of Title VI. In addition to reporting complaints and lawsuits in the grant application, subrecipients must inform MTA *immediately* when lawsuit/complaints are received.
- **Title VI Policy** – All subrecipients must develop and follow a written Title VI policy including:
  - **Investigation/Complaint/Lawsuits Procedures** – providing a written process for receiving, recording, responding to, and resolving Title VI investigations, complaints, and lawsuits. This process should include notification of MTA *immediately* when any investigation, complaint, or lawsuit is initiated.
  - **LEP Plan** – providing a written plan for affording access to meaningful activities and programs for persons with limited English proficiency based on the DOT LEP guidance (or copy of the agency's alternative framework for providing access to activities and programs). Certain recipients that serve very few LEP persons may choose not to develop a written LEP plan; however, absence of a written LEP plan does not prevent the underlying obligation to ensure meaningful access by LEP persons to your programs or activities.
  - **Public Notification** – notifying the public of the Title VI rights and procedures they need to follow to file a complaint. This notice should be disseminated to the public through measures that can include, but cannot be limited to the agency's website. Refer to Chapter IV of the FTA circular and Chapter 2 of this manual for additional information on the required contents of the notice and effective practices for dissemination to the public.
  - **Public Participation** – establishing and conducting public outreach and involvement activities and undertake steps to ensure that minority persons have meaningful access to these activities.
- **Reporting** – Report any Title VI complaints as part of the grant application certification and assurances and to MTA *immediately*.
- **First Time Applicants** – In addition to the assurances, entities receiving Federal transit funding for the first time must provide information regarding

their Title VI compliance history if they have previously received funding from another Federal agency (refer to the FTA circular for a description of what needs to be provided).

- **Compliance Review** – In addition to the certifications and assurances submitted with the grant application and the reporting associated with the grant applicant, subrecipients should expect MTA to review their Title VI policy during compliance monitoring visits.
- **Title VI Program Submissions** – FTA requires that all recipients and subrecipients document their compliance by submitting a Title VI plan to the MTA's Office of Equal Opportunity Compliance Programs once every three years. To meet this requirement, the subrecipients must prepare and submit certain general information. The collection and reporting of this information constitutes their Title VI program. The Title VI plan submission must include the following:
  - A copy of the subrecipient's **Title VI notice to the public** that indicates the subrecipient complies with Title VI, and informs members of the public of the protections against discrimination afforded to them by Title VI. Include a list of locations where the notice is posted.
  - A copy of the subrecipient's **instructions to the public regarding how to file a Title VI discrimination complaint**, including a copy of the complaint form.
  - A list of any public transportation-related **Title VI investigations, complaints, or lawsuits** filed with the subrecipient since the time of the last triennial submission to MTA. This list should include only those that pertain to the transportation recipient submitting the report, not necessarily the larger agency or department of which the subrecipient is a part.
  - A **public participation plan** that includes an outreach plan to engage minority and limited English proficient populations, as well as a summary of outreach efforts made since the last Title VI Program submission.
  - A copy of the subrecipient's **plan for providing language assistance to persons with limited English proficiency**, based on the U.S. DOT LEP Guidance.
  - Subrecipients that have transportation-related, non-elected planning boards, advisory councils or committees, or similar bodies, for which the membership is selected by the subrecipient, have an additional requirement. Such subrecipients must provide a **table depicting the racial breakdown of the membership of the non-elected board**,

**council, or committee, and a description of efforts made to encourage the participation of minorities** in the group.

- If the subrecipient constructs a facility, such as a vehicle storage facility, maintenance facility, operation center, etc., the subrecipient is required to conduct a Title VI equity analysis with regard to the location of the facility during the planning stage of the facility, and must include **a copy of the facility Title VI equity analysis** as part of their Title VI program submission to MTA. If in the future, a Section 5310 subrecipient with any active 5310 vehicles or open FTA grants plans to construct a facility, regardless of the funding source for the facility, they should contact MTA as early as possible in the planning stage for guidance on conducting the Title VI analysis for the facility location.

Attachment 3.A is a Title VI Plan template that subrecipients can use to meet their Title VI Plan obligations.

### **Federal Environmental Justice Requirements (FTA Construction Projects)**

For new FTA funded construction and major rehabilitation or renovation projects, an environmental justice analysis must be submitted. Subrecipients should integrate an environmental justice analysis into the National Environmental Policy Act (NEPA) documentation of construction projects. (Recipients are not required to conduct environmental justice analyses of projects where NEPA documentation is not required).

Subrecipients undertaking new construction and major rehabilitation or renovation projects with Federal money must work closely with their MTA 5310 Program Manager and Title VI Coordinator at the earliest possible stages and throughout this process to ensure that Environmental Justice requirements are met.

### **Federal Requirements Regarding Services to those with Limited English Proficiency (LEP)**

The Title VI requirements include public notice requirements as well as requirements for ensuring meaningful access to services for LEP persons through both public information and participation.

All subrecipients must have an LEP plan that includes an LEP assessment to identify whether there is a significant LEP population. The FTA considers a significant LEP population as one in which the proportion of persons in the grantee's service area who reported to the U.S. Census that they speak English less than "very well" exceeds the statewide proportions, and/or the grantee's outreach to the community organizations

serving LEP persons in their service area determines that there exists a sizable LEP population residing in the service area.

Subrecipients should develop an implementation plan to address the identified needs of the LEP populations it serves. The plan should consist of:

- identifying the LEP individuals who need language assistance,
- providing language assistance measures,
- training staff,
- providing notice to LEP persons of service available,
- monitoring and updating the LEP plan.

The U.S. DOT guidance on LEP compliance recommends a four-factor analysis to determine the local community need for language assistance. The four factors are:

- number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the grant recipient;
- frequency with which LEP individuals come in contact with the program;
- nature and importance of the program, activity, or service provided by the recipient to people's lives; and
- resources available to the recipient and costs.

Appropriate language assistance measures will vary from community to community, but may include oral language services (spoken interpretation) and written translation of documents that are vital for accessing services (such as schedule brochures, “how to ride” guides, applications or referrals to paratransit services, passenger policies, notices about service changes and public hearings, emergency evacuation instructions, and facilities signage). A sample template LEP plan is included in the sample Title VI Program attached as Attachment 3.A.

For detailed guidance on complying with LEP requirements, consult the U.S. DOT LEP policy guidance:

<https://www.gpo.gov/fdsys/pkg/FR-2005-12-14/pdf/05-23972.pdf>.

The FTA Office of Civil Rights developed a handbook for implementing LEP responsibilities, which can be downloaded through:

[http://www.sddot.com/services/civil/docs/LEP\\_Handbook.pdf](http://www.sddot.com/services/civil/docs/LEP_Handbook.pdf)

## AMERICANS WITH DISABILITIES ACT (ADA)/ SECTION 504

The ADA prohibits discrimination against individuals with disabilities in the areas of employment, public services including transportation, public accommodations including services operated by private entities, and telecommunications. This Federal law sets forth specific requirements for transportation services, vehicles, and facilities. The regulations were codified by the U.S. DOT in:

- 49 CFR Part 37 –Transportation Services for Individuals with Disabilities
- 49 CFR Part 38 –Accessibility Specifications for Transportation Vehicles

The U.S. Architectural and Transportation Barriers Compliance Board (commonly known as the Access Board), develops and maintains the accessibility design criteria on which the U.S. DOT regulations are based, including ADA Accessibility Guidelines (ADAAG) for vehicles, buildings, facilities, and telecommunications.

Recipients of Federal funding are also subject to the requirements of Section 504, codified in 49 CFR Part 27--Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.

The fundamental requirements of these regulations that apply to subrecipients of Section 5310, JARC, and New Freedom are summarized in this section.

### Section 504 - Nondiscrimination Where Federal Funding is Received

Under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), an individual may not be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance solely by reason of his or her disability.

#### Written Policies

ADA/Section 504 policies need to be included in your organization's written policies, and staff need to be informed and trained to ensure the policies are followed. A template of required ADA policies, with recommended documentation practices, is provided as Attachment 3.B. Note that when MTA conducts compliance reviews of its subrecipients, the reviewer looks at the organization's written ADA policies for documentation of compliance with Federal and State requirements.

Below are required ADA policies relevant to Section 5310 subrecipients (i.e., those that pertain to private non-profit entities operating demand response service). If you operate fixed route service, there are additional requirements that are not addressed here.

- **Purchasing Accessible Vehicles** – All new vehicles except automobiles must be accessible unless the demand response system, when viewed in its entirety,



provides a level of service to individuals with disabilities equivalent to the level of service it provides to others. USDOT is working on updating the ADA accessibility standards for vehicles, but the current requirements for demand response vehicles include:

- **Entryways** – A lift or ramp is needed to enable someone who cannot climb stairs in getting from the sidewalk to the interior of the vehicle. Design specifications for lifts and ramps, including dimensions, load, slope, surface materials, handrails, raised edges for safety, and threshold clearances, must meet FTA standards. Doors, steps and thresholds also have requirements for slip resistance, color contrast, door height, and lighting.
- **Space for Maneuvering** – There must be adequate clearances at the boarding location and through the aisle for a person using a wheelchair to get to the securement locations. This includes positioning the farebox and other equipment so that they do not obstruct traffic in the vestibule. The regulations indicate design standards for interior clearances, support rails and poles.
- **Wheelchair Securement Areas** – There must be at least one securement area for vehicles less than 22 feet in length and at least two securement areas in larger vehicles. Securement locations must meet minimum dimensions, and in vehicles 22 feet or greater, at least one must be forward-facing. Securement areas may have fold-down seats to accommodate other passengers when a wheelchair or mobility aid is not occupying the area.
- **Securement Device** – Securement systems are required to secure wheelchairs in the securement areas. The regulations specify minimum design load based on the gross vehicle weight rating of the vehicle, and maximum movement under normal operating conditions.
- **Seat Belt and Shoulder Harness** – In addition to the securement system for the wheelchair, each securement area must have a seat belt and shoulder harness to secure the person. The seatbelt is to be used in addition to, never in lieu of, the securement device.
- **Priority Seating** – Vehicles must contain signage indicating that seats in the front of the vehicle, including at least one set of forward-facing seats, are priority seats for individuals with disabilities, and that other passengers should make these seats available to those who wish to use them. Such signage must also be posted at securement locations. This signage must meet character accessibility standards as designated in 49 CFR Part 38.

- **Equivalent Service Standards** - A system when viewed in its entirety is considered to provide equivalent service if the service available to individuals with disabilities is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided to other individuals with respect to the following service characteristics:
  - Schedules/headways (if the system is fixed route)
  - Response time (if the system is demand responsive)
  - Fares
  - Geographic area of service
  - Hours and days of service
  - Restrictions or priorities based on trip purpose (if the system is demand responsive)
  - Availability of information
  - Reservations capability (if the system is demand responsive)
  - Constraints on capacity or service availability.
- **Maintenance of Accessibility Features in Good Working Order** - Accessibility equipment on your vehicles must be maintained in good working order. This includes performing preventive maintenance (PM) according to equipment manufacturer's specifications, training drivers in proper use, cycling lifts as part of every pre-trip inspection, removing vehicles from service when equipment is not working properly, and performing repairs on a timely basis.
- **Accommodation of Wheelchairs** - A transportation provider must carry the wheelchair and occupant if the lift and vehicle can accommodate the wheelchair and occupant. The USDOT defines a wheelchair as "a mobility aid belonging to any class of three- or more-wheeled devices, usable indoors, and designed or modified for and used by individuals with mobility impairments, whether operated manually or powered." **Note: the word "wheelchair" as used in this 5310 Program Manual includes other mobility devices such as scooters.**
- **Use of Lift** - Drivers must deploy the lift to allow customers using wheelchairs to board, as well as upon request by other customers who cannot board using the stairs (such as customers who use walkers and other mobility aids) due to their disability. This includes permitting standees on the lift. A transportation provider cannot require that an individual back his or her wheelchair onto the lift if the individual prefers to board it facing forward. Transportation providers are required to carry a wheelchair and its user, as long as the lift is designed to accommodate the size and weight of the wheelchair and its user, and there is space for the wheelchair on the vehicle.
- **Wheelchair Securement** - Transportation providers may require that wheelchairs be secured on board the vehicle; however, customers may not be

denied service because their wheelchair or scooter cannot be secured. On the other hand, if the transportation provider has a policy that wheelchairs be secured and customer refuses to permit his or her chair be secured, the transportation provider may deny service under this circumstance.

- **Seatbelts** - Customers using wheelchairs cannot be required to wear seatbelts unless all other customers are subject to the same requirement. Under no circumstances should a vehicle-installed seatbelt be secured on a customer in a wheelchair or scooter that has not been properly secured to the vehicle, due to the risk of injury to the passenger.
- **Passenger Assistance** - As necessary or upon request, the driver (or other personnel of the transportation provider) must assist customers in using the lift or ramp to enter the vehicle and in using the securement equipment. All drivers and their supervisors must be trained in the proper use of the equipment as well as sensitivity towards individuals with disabilities.
- **Service Animals** - Service animals must be permitted to accompany individuals with disabilities on vehicles. Service animals are usually dogs, though other types of animals are sometimes trained to assist individuals with disabilities.
- **Portable Oxygen** - Individuals with disabilities must be permitted to travel with a respirator, concentrator, or portable oxygen supply.
- **Availability of Information in Accessible Formats** - Adequate information about transportation services must be made available to individuals with disabilities in formats that they are able to understand. This includes provision of audio and large print formats for persons with vision impairments, or electronic formats that can be made accessible by screen reader technology. The availability of braille is not specifically required, although it may be recommended if so requested by customers.
- **Making Reasonable Accommodations** - In addition to specific transportation requirements detailed in 49 CFR Part 37, the ADA has additional, more general requirements in the U.S. Department of Justice (DOJ) ADA regulation for private entities that offer places of public accommodation (including social service agencies and health care providers, but excluding religious organizations) under Title III of the ADA. Private entities are required to make reasonable modifications to policies, practices, and procedures when such modifications are necessary to avoid discrimination on the basis of disability, unless the entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. For example, a transportation service with a "no eating on the bus" policy must allow a modification of the policy in the case of an individual with diabetes who needs to eat on a particular schedule.

- **Complaint Procedures** - All Section 5310 subrecipients must have a procedure for responding to and tracking ADA-related complaints, including identification of a responsible party and written documentation of complaints and their resolution. Passengers should also be made aware of the complaint procedures for ADA-related complaints.
- **Employment** - Employers cannot discriminate against individuals with disabilities when hiring or in the workplace when an individual with a disability has been hired. Titles I and V of the ADA prohibit employment discrimination against qualified individuals with disabilities in the private sector, as well as in State and local governments. Employers with fifteen or more employees are required to provide reasonable accommodation for individuals with disabilities, unless it would cause undue hardship. Section 5310 subrecipient compliance with reasonable accommodation requirements is not under the purview of the MTA. However, information is introduced in the manual in the interest of being helpful.
  - Undue hardship means that an accommodation would be unduly costly, extensive, substantial or disruptive, or would fundamentally alter the nature or operation of the business.
  - A reasonable accommodation is any change in the work environment or in the way a job is performed that enables an individual with a disability to enjoy equal employment opportunities.
  - For assistance with accommodating individuals with disabilities as employees, the Job Accommodation Network, a service provided by the U.S. Department of Labor's Office of Disability Employment Policy (ODEP), provides free consulting services for employers.  
Website: <https://www.dol.gov/odep/resources/jan.htm>

## Additional ADA Resources

- FTA's ADA web page - <https://www.transit.dot.gov/ada> - Includes links to the regulations and other resources.
- FTA Circular C 4710.1 - Americans with Disabilities Act (ADA): Guidance - Website: <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/americans-disabilities-act-guidance-pdf>
- National Aging and Disability Transportation Center (NADTC) - Website: <http://www.nadtc.org/>

## EQUAL EMPLOYMENT OPPORTUNITY (EEO)

As employers, organizations that receive Section 5310 funding may not discriminate in any aspect of employment, including but not limited to, hiring and firing, testing, recruitment and promotion. Grantees of Federal transit funding must ensure that no person shall be subject to discrimination in employment under any project, program, or activity receiving Federal financial assistance from the Federal transit laws. Discrimination against any individual on the basis of race, color, religion, sex, national origin, disability, or age is prohibited. There are numerous steps that FTA subrecipients must take to assure authorities that EEO policies are actively practiced. It is the responsibility of every Section 5310 subrecipient to ensure that their agency is in compliance with the Federal and State EEO guidelines concerning discrimination in the workplace.

### EEO Requirements for All Section 5310 Subrecipients

All FTA subrecipients, regardless of size, are required to establish an EEO Program incorporating the following minimal elements:

- **Responsible Party** - Identify the office or position responsible for ensuring compliance with EEO requirements. Include this information in the grant application. The EEO officer should be an executive and must have direct access to the subrecipient's Chief Executive Officer.
- **Written Policy Statement** - Develop a formal EEO policy not to discriminate against any employee or applicant and take affirmative action to ensure that applicants are employed and employees treated without regard to race, color, creed, national origin, sex, age, or disability.
- **Complaint Procedure** - Establish a procedure for handling EEO employment complaints. All employees and applicants have the right to file complaints alleging discrimination on the basis of race, color, creed, national origin, sex, age or disability, regardless of whether the transit system has a formal EEO Program (as required for larger organizations). Subrecipients should have procedures in place for receiving, processing and handling complaints. All EEO complaints must be reported to MTA.
- **Notice to Employees and Applicants** - Post in conspicuous places and make available to employees and applicants for employment notices setting forth their EEO policy. Employees should be made aware of the fact that the Federal Equal Employment Opportunity Commission (EEOC) has established a grievance process that can be accessed at the Federal, State, and local levels (<https://www.eeoc.gov/employees/charge.cfm>).
- **Certification and Assurances** - Certify in each grant application's certifications and assurances that EEO requirements are being met.

- **Complaint Reports** - Notify MTA *immediately* of any EEO complaints. Also report any EEO complaints (and the disposition of those complaints) as part of the grant application certification and assurances.
- **Status Report** - Indicate as part of the grant application whether or not the organization has 50 or more transportation-related employees, received more than \$1 million in FTA capital or operating assistance or more than \$250,000 in FTA planning assistance in the fiscal year preceding the application year, and, if yes, whether or not the organization has an FTA approved EEO program. The requirements are more formal for any grantee that exceeds these thresholds. A Section 5310 applicant that is not also a LOTS is highly unlikely to fall into this category, but should that be the case, the MTA Office of Local Transit Support will contact you when grant awards are made and work with you to ensure compliance with the requirements for a formal EEO Program.
- **Policy and Procedures for Making Reasonable Accommodations** for individuals with disabilities upon request (only required for subrecipients with fifteen or more employees).

A sample EEO Program is provided as Attachment 3.C.

## Federal Laws Related to Nondiscrimination in Employment

- The Civil Rights Act of 1964 applies to employment under Title VII - Non-Discrimination in Hiring Practices. Title VII prohibits employment discrimination based on race, color, religion, sex and national origin or retaliation. Employment discrimination is also covered by Title VI if Federal financial assistance is provided for employment purposes, or if employment discrimination results in discrimination against program beneficiaries.
- The Federal Transit Laws, 49 U.S.C. 5332(b), provide that "no person in the United States shall on the grounds of race, color, religion, national origin, sex, or age be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any project, program or activity funded in whole or in part through financial assistance under this Act."
- The ADA, as described in the previous section, prohibits discrimination against individuals with disabilities when hiring or in the workplace when an individual with a disability has been hired. Titles I and V of the ADA prohibit employment discrimination against qualified individuals with disabilities in the private sector, and State and local governments. Employers with fifteen or more employees are required to provide reasonable accommodation for

individuals with disabilities, unless it would cause undue hardship, as described earlier in this chapter.

## **DBE - NON-DISCRIMINATION IN CONTRACTING PRACTICES**

The US DOT's Disadvantaged Business Enterprise (DBE) Program seeks to ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs and to create a level playing field on which DBEs can compete fairly for DOT-assisted contracts. The DBE regulations are contained in 49 CFR Part 26 - Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.

Under this rule, a DBE is defined as "a for-profit small business concern" when:

- (1) At least 51% owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
- (2) The management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it."

All Section 5310 subrecipients must ensure that they do not discriminate against DBEs in the awarding and administration of FTA- and MTA-assisted contracts. However, the requirement for a DBE program only kicks in when a subrecipient receives more than \$250,000 of FTA funds in prime contracts (excluding vehicle purchases) in a Federal Fiscal Year.

Because MTA purchases vehicles for its Section 5310 subrecipients and funding for Section 5310 is limited, Section 5310 agencies are extremely unlikely to be subject to DBE Program requirements. Should this occur, however, the subrecipient will work with MTA to develop and implement a formal DBE program.

## SUMMARY

Under Chapter 3 of this manual, as a subrecipient of Section 5310 funding, you will be required to provide the following information, forms or notices:

- A triennial Title VI Program updated annually. A sample Title VI Program is provided as Attachment 3.A.
- An ADA Service Program (written policies and procedures) if you operate Section 5310 FTA funded transportation services (with 5310 capital-funded vehicles or otherwise). A sample ADA Service Program is provided as Attachment 3.B.
- An EEO Policy, conspicuously posted, as well as an EEO complaint procedure. A sample EEO Policy is provided as Attachment 3.C.



**Title VI**

**2015 – 2017 Implementation Plan**

**Title VI of the Civil Rights Act of 1964**

**Name of Agency**

***[Insert Agency brand, logo here or put this cover page on agency letterhead]***

**Adopted date**

**Month \_\_, 201\_\_**

**Note:** Throughout this document **Yellow highlighted** text represents instruction for the non-profit agency.

**Note:** Throughout this document, **Red highlighted** text represents actual sample documents and/or material to provide by the non-profit agency.

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## I. INTRODUCTION

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance. Specifically, Title VI provides that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." (42 U.S.C. Section 2000d).

The Civil Rights Restoration Act of 1987 clarified the intent of Title VI to include all programs and activities of Federal-aid recipients, sub-recipients, and contractors whether those programs and activities are federally funded or not.

Recently, the Federal Transit Administration (FTA) has placed renewed emphasis on Title VI issues, including providing meaningful access to persons with Limited English Proficiency.

Recipients of public transportation funding from FTA and the Maryland Transit Administration (MTA) are required to develop policies, programs, and practices that ensure that federal and state transit dollars are used in a manner that is nondiscriminatory as required under Title VI.

This document details how **[Name of Agency]**, a private non-profit organization, incorporates nondiscrimination policies and practices in providing transportation services to its clients.

## II. OVERVIEW OF SERVICES

*[Insert description about your organization and the transportation services you provide. Please be mindful to describe your overall agency and mission with emphasis on how your federally-funded transportation component fits in and serves your clients. This description should parallel the service description provided in your latest 5310 grant application, but with enough detail so that there is a thorough understanding of where and when your transportation services are provided and to exactly whom under what restrictions or program requirements]*

### III. POLICY STATEMENT AND AUTHORITIES

#### Title VI Policy Statement

[Name of Agency] is committed to ensuring that no person shall, on the grounds of race, color, national origin, as provided by Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987 (PL 100.259), be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, whether those programs and activities are federally funded or not.

[Name of Agency]'s Title VI Manager is responsible for initiating and monitoring Title VI activities, preparing required reports, and other responsibilities as required by Title 23 Code of Federal Regulations (CFR) Part 200, and Title 49 CFR Part 21.

---

Signature of Authorizing Official

---

Date

#### Authorities

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance (refer to 49 CFR Part 21). The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of the terms “programs or activities” to include all programs or activities of Federal Aid recipients, sub recipients, and contractors, whether such programs and activities are federally assisted or not.

Additional authorities and citations include: Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d); Federal Transit Laws, as amended (49 U.S.C. Chapter 53 et seq.); Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.); Department of Justice regulation, 28 CFR part 42, Subpart F, “Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs” (December 1, 1976, unless otherwise noted); U.S. DOT regulation, 49 CFR part 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964” (June 18, 1970, unless otherwise noted); Joint FTA/Federal Highway Administration (FHWA) regulation, 23 CFR part 771, “Environmental Impact and Related Procedures” (August 28, 1987); Joint FTA/FHWA regulation, 23 CFR part 450 and 49 CFR part 613, “Planning Assistance and Standards,” (October 28, 1993, unless otherwise noted);

U.S. DOT Order 5610.2, “U.S. DOT Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations,” (April 15, 1997); U.S. DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient Persons, (December 14, 2005), and Section 12 of FTA’s Master Agreement, FTA MA 13 (October 1, 2006).

#### IV. NONDISCRIMINATION ASSURANCES TO MTA

In accordance with 49 CFR Section 21.7(a), every application for financial assistance from the Federal Transit Administration (FTA) must be accompanied by an assurance that the applicant will carry out the program in compliance with DOT's Title VI regulations. This requirement is fulfilled when the Maryland Transit Administration (MTA) submits its annual certifications and assurances to FTA. The MTA shall collect Title VI assurances from sub-recipients prior to passing through FTA funds.

As part of the Certifications and Assurances submitted to MTA at the time of grant application and award, [Name of Agency] submits a Nondiscrimination Assurance which addresses compliance with Title VI as well as nondiscrimination in hiring (EEO) and contracting (DBE), and nondiscrimination on the basis of disability (ADA).

In signing and submitting the assurance, [Name of Agency] confirms to MTA our commitment to nondiscrimination and compliance with federal and state requirements.

**V. PLAN APPROVAL DOCUMENT**

[The agency's Title VI Plan must be approved by the agency's governing body. Below is sample approval language the agency may use to do so.]

I hereby acknowledge the receipt of the [Name of Agency] Title VI Implementation Plan 2014-2017. I have reviewed and approve the Plan. I am committed to ensuring that no person is excluded from participation in, or denied the benefits of [Name of Agency's] transportation services on the basis of race, color, or national origin, as protected by Title VI according to C 4702.1B Title VI requirements and guidelines for Federal Transit Administration sub-recipients.

---

Signature of Authorizing Official

---

DATE

NAME, TITLE

AGENCY NAME

*NOTE: Provide here or as an Appendix, a copy of meeting minutes, resolution, or other appropriate documentation showing that the Board of Directors or appropriate governing entity of official(s) responsible for policy decisions has reviewed and approved the Title VI Program.*

## VI. ORGANIZATION AND TITLE VI PROGRAM RESPONSIBILITIES

Under the authority of [Name of Agency], the [Agency Authorizing Official's title] will serve as the Title VI Manager and is responsible for ensuring implementation of the agency's Title VI program. *(Note: More than one official may be designated to serve as the Title VI official).* The specific areas of responsibility are described below.

### **Overall Organization for Title VI**

The Title VI Manager and staff are responsible for coordinating the overall administration of the Title VI program, plan, and assurances, including complaint handling, data collection and reporting, annual review and updates, and internal education.

### **Title VI Manager Responsibilities**

The Title VI Manager is charged with the responsibility for implementing, monitoring, and ensuring compliance with Title VI regulations. Title VI responsibilities are as follows:

1. Process the disposition of Title VI complaints received.
2. Collect statistical data (race, color or national origin) of participants in and beneficiaries of agency programs, (e.g., affected citizens, and impacted communities).
3. Conduct annual Title VI reviews of agency to determine the effectiveness of program activities at all levels.
4. Conduct Title VI reviews of construction contractors, consultant contractors, suppliers, and other recipients of federal-aid fund contracts administered through the agency.
5. Conduct training programs on Title VI and other related statutes for agency employees.
6. Prepare a yearly report of Title VI accomplishments and goals, as required.
7. Develop Title VI information for dissemination to the public client group(s) served and, where appropriate, in languages other than English.
8. Identify and eliminate discrimination.
9. Establish procedures for promptly resolving deficiency status and writing the remedial action necessary, all within a period not to exceed 90 days.

### **General Title VI Responsibilities of the Agency**

The Title VI Manager is responsible for substantiating that these elements of the plan are appropriately implemented and maintained, and for coordinating with those responsible for public outreach and involvement and service planning and delivery.



## 1. Data Collection

To ensure that Title VI reporting requirements are met, [Name of Agency] will maintain:

- A database or log of Title VI complaints received. The investigation of and response to each complaint is tracked within the database or log.
- A log of the public outreach and involvement activities undertaken to ensure that minority and low-income people had a meaningful access to these activities.

## 2. Annual Report and Updates

As a sub-recipient of FTA funds, [Name of Agency] is required to submit a Quarterly Report Form to the MTA that documents any Title VI complaints received during the preceding quarter and for each year. [Name of Agency] will also maintain and provide to the MTA on an annual basis, the log of public outreach and involvement activities undertaken to ensure that client minority and low-income people have had meaningful access to these activities.

Further, we will submit to MTA updates to any of the following items since the previous submission, or a statement to the effect that these items have not been changed since the previous submission, indicating date:

- A copy of any compliance review report for reviews conducted in the last three years, along with the purpose or reason for the review, the name of the organization that performed the review, a summary of findings and recommendations, and a report on the status or disposition of the findings and recommendations
- Public Participation Plan (PPP)
- Language Assistance Plan (LAP)
- Procedures for tracking and investigating Title VI complaints
- A list of Title VI investigations, complaints or lawsuits filed with the agency since the last submission
- A copy of the agency notice to the public that it complies with Title VI and instructions on how to file a discrimination complaint
- Minority representation on Committees by race

## 3. Annual Review of Title VI Program

Each year, in preparing for the Annual Report and Updates, the Title VI Manager will review the agency's Title VI program to assure implementation of the Title VI plan. In addition, they will review agency operational guidelines and publications, including those for contractors, to verify that Title VI language and provisions are incorporated, as appropriate.

#### 4. Dissemination of Information Related to the Title VI Program

Information on our Title VI program will be disseminated to agency employees, contractors, and beneficiaries, as well as to program beneficiaries, as described in the “Public Outreach and Involvement” section of this document, and in other languages when needed according to the LAP plan as well as Federal and State laws/regulations.

#### 5. Resolution of Complaints

Any individual may exercise his or her right to file a complaint if that person believes that he, she or any other program beneficiaries have been subjected to prohibited non-discrimination requirements or to unequal treatment or discrimination in the receipt of benefits/services. **[Name of Agency]** will report the complaint to MTA within three business days (per MTA requirements), and make a concerted effort to resolve complaints locally, using the agency’s Title VI Complaint Procedures. All Title VI complaints and their resolution will be logged as described under Element 1, Data Collection, and reported annually (in addition to immediately) to MTA.

#### 6. Written Policies and Procedures

Our Title VI policies and procedures are documented in this plan and its appendices and attachments. This plan will be updated periodically to incorporate changes and additional responsibilities that arise. During the course of the Annual Title VI Program Review (Element 3 above), the Title VI Manager will determine whether or not an update is needed.

#### 7. Internal Education

Our employees will receive training on Title VI policies and procedures upon hiring and upon promotion. This training will include requirements of Title VI, our obligations under Title VI (LEP requirements included), required data that must be gathered and maintained. In addition, training will be provided when any Title VI-related policies or procedures change (agency-wide training), or when appropriate in resolving a complaint.

Title VI training is the responsibility of **[Title of responsible individual(s)]**.

#### 8. Title VI Clauses in Contracts

In all Federal procurements requiring a written contract or Purchase Order (PO), **[Name of Agency]**’s contract/PO will include appropriate non-discrimination clauses. The Title VI Manager will work with the **[Title of individual(s)]** who is/are responsible for procurement contracts and PO’s to ensure appropriate Federal non-discrimination clauses are included.

## VII. GENERAL REPORTING REQUIREMENTS

### **REQUIREMENT TO PROVIDE A TITLE VI PUBLIC NOTICE**

Title 49 CFR Section 21.9(d) requires recipients to provide information to the public regarding the recipient's obligations under DOT's Title VI regulations and apprise members of the public of the protections against discrimination afforded to them by Title VI. At a minimum, [**Name of Agency**] shall disseminate this information to the public by posting a Title VI notice on the agency's website, in public areas of the agency's office(s), including the reception desk, meeting rooms, in all Federally-funded vehicles, etc. ***The following Sample Public Notice is to be included as APPENDIX A- Title VI Notice to the Public; List of Locations, and displayed in your vehicles and facilities. Place Notice on agency letterhead:***

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance. Specifically, Title VI provides that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" (42 U.S.C. Section 2000d).

***(Agency Name)*** is committed to ensuring that no person is excluded from participation in, or denied the benefits of its transportation services on the basis of race, color, or national origin, as protected by Title VI in Federal Transit Administration (FTA) Circular 4702.1B. If you need more information or feel you are being denied participation in or being denied benefits of the transit services provided by ***(Agency Name)***, or otherwise being discriminated against because of your race, color, national origin, gender, age, or disability, our contact information is:

**Name**

**Title**

**Agency Name**

**Address**

**City, State Zip code**

**Telephone Number**

**Email address**

***As part of Title VI requirements, subrecipients are also required to maintain a list of locations where their Title VI Notices have been posted or displayed. This list is to be included as part of APPENDIX A - Title VI Notice to the Public; List of Locations.***

## **TITLE VI COMPLAINT PROCEDURES**

### **REQUIREMENT TO DEVELOP TITLE VI COMPLAINT PROCEDURES AND COMPLAINT FORM.**

In order to comply with the reporting requirements established in 49CFR Section 21.9(b), **[Name of Agency]** shall develop procedures for investigating and tracking Title VI complaints filed against us and will make this procedures for filing a complaint available to members of the public. **[Name of Agency]** has also developed a Title VI complaint form. The form and procedure for filing a complaint are available on the **[Name of Agency]** website and at their facilities.

### **Sample of Narrative**

Any individual may exercise his or her right to file a complaint with **[Name of Agency]** if that person believes that he or she have been subjected to unequal treatment or discrimination in the receipt of benefits or services. We will report the complaint to MTA within three business days (per MTA requirements), and make a concerted effort to resolve complaints locally, using the agency's Nondiscrimination Complaint Procedures. All Title VI complaints and their resolution will be logged and reported annually (in addition to immediately) to MTA.

**A person may also file a complaint directly with the Federal Transit Administration, Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5<sup>th</sup> floor – TCR, 1200 New Jersey Avenue SE, Washington, DC 20590.**

**[Name of Agency]** includes the following language on all printed information materials, on the agency's website, in press releases, in public notices, in published documents, and on posters on the interior of each vehicle operated in passenger service:

***[Name of Agency] is committed to ensuring that no person is excluded from participation in, or denied the benefits of its transportation services on the basis of race, color or national origin, as protected by Title VI in the Federal Transit Administration (FTA) Circular 4702.1B. For additional information on [Name of Agency]'s nondiscrimination policies and procedures, or to file a complaint, please visit the website at [redacted] or contact (Name, Title and Mailing address of the Title VI Manager).***

**A copy of [Name of Agency's] Title VI Complaint Form is attached as APPENDIX B and a sample the subrecipient may use is provided below.**

**SAMPLE – COMPLAINT FORM**

Central Maryland Regional Transit

**TITLE VI COMPLAINT FORM**

<b>Section I:</b>				
Name:				
Address:				
Telephone (Home):			Telephone (Work):	
Electronic Mail Address:				
Accessible Format Requirements?	Large Print		Audio Tape	
	TDD		Other	
<b>Section II:</b>				
Are you filing this complaint on your own behalf?			Yes*	No
*If you answered "yes" to this question, go to Section III.				
If not, please supply the name and relationship of the person for whom you are complaining:				
Please explain why you have filed for a third party: _____				
Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party.			Yes	No
<b>Section III:</b>				
I believe the discrimination I experienced was based on (check all that apply):				
<input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> National Origin				
Date of Alleged Discrimination (Month, Day, Year): _____				
Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known) as well as names and contact information of any witnesses. If more space is needed, please use the back of this form.				
_____ _____				
<b>Section IV</b>				
Have you previously filed a Title VI complaint with this agency?			Yes	No
<b>Section V</b>				
Have you filed this complaint with any other Federal, State, or local agency, or with any Federal or State court?				
<input type="checkbox"/> Yes <input type="checkbox"/> No				

312 Marshall Avenue, Suite 1000 - Laurel, MD 20707-4824 - Phone 240.581.5800 - [www.cmrtransit.org](http://www.cmrtransit.org)

If yes, check all that apply:	
<input type="checkbox"/> Federal Agency: _____	
<input type="checkbox"/> Federal Court _____	<input type="checkbox"/> State Agency _____
<input type="checkbox"/> State Court _____	<input type="checkbox"/> Local Agency _____
Please provide information about a contact person at the agency/court where the complaint was filed.	
Name: _____	
Title: _____	
Agency: _____	
Address: _____	
Telephone: _____	
<b>Section VI</b>	
Name of agency complaint is against: _____	
Contact person: _____	
Title: _____	
Telephone number: _____	

You may attach any written materials or other information that you think is relevant to your complaint.

Signature and date required below

\_\_\_\_\_  
Signature Date

Please submit this form in person at the address below, or mail this form to:  
CMRT Title VI Coordinator  
312 Marshall Ave., Suite 1000  
Laurel, MD 20707



## **Procedures for Handling and Reporting Investigations/Complaints and Lawsuits**

Instructions for filing Title VI complaints are posted on the agency's website and provided below. Should any Title VI investigations be initiated by FTA or MTA, or should any Title VI lawsuits be filed against [**Name of Agency**], the agency will follow these procedures:

### **Procedures**

1. Any individual, group of individuals or entity that believes they have been subjected to discrimination on the basis of race, color, or national origin may file a written complaint with the Title VI Manager.

The complaint is to be filed in the following manner:

- a. A formal complaint must be filed within 180 calendar days of the alleged occurrence.
  - b. The complaint should include:
    - complainant's name, address, and contact information (i.e., telephone number, email address, etc.)
    - date(s) of the alleged act of discrimination (if multiple days, include the date when the complainant(s) became aware of the alleged discrimination and the date on which the alleged discrimination was discontinued or the latest instance)
    - description of the alleged act of discrimination
    - location(s) of the alleged act of discrimination (include vehicle number if appropriate)
    - explanation of why the complainant believes the act to have been discriminatory on the basis of race, color, or national origin
    - if known, the names and/or job titles of those individuals perceived as parties in the incident
    - contact information for any witnesses
    - indication of any related complaint activity (i.e., was the complaint also submitted to MTA or FTA?)
  - c. The complaint shall be submitted to the Title VI Manager at [**Mailing address**] and/or [**email address**].
  - d. In the case where a complainant is unable or incapable of providing a written statement, a verbal complaint of discrimination may be made to the Title VI Manager.
2. Upon receipt of the complaint, the Title VI Manager will immediately:
    - a. notify MTA (no later than 3 business days from receipt)
    - b. notify [**Name of Agency**] Authorizing Official
    - c. ensure that the complaint is entered in the complaint database.
  3. Within 3 business days of receipt of the complaint, the Title VI Manager will contact the complainant by telephone to set up an interview.

4. The complainant will be informed that they have a right to have a witness or representative present during the interview and can submit any documentation he/she perceives as relevant to proving his/her complaint.
5. If MTA has assigned staff to assist with the investigation, the Title VI Manager will offer an opportunity to participate in the interview.
6. The alleged discriminatory service or program official will be given the opportunity to respond to all aspects of the complainant's allegations.
7. The Title VI Manager will determine, based on relevancy or duplication of evidence, which witnesses will be contacted and questioned.
8. The investigation may also include:
  - a. investigating contractor operating records, policies or procedures
  - b. reviewing routes, schedules, and fare policies
  - c. reviewing operating policies and procedures
  - d. reviewing scheduling and dispatch records
  - e. observing behavior of the individual whose actions were cited in the complaint.
9. All steps taken and findings in the investigation will be documented in writing and included in the complaint file.
10. The Title VI Manager will contact the complainant at the conclusion of the investigation (but prior to writing the final report) and give the complainant an opportunity to give a rebuttal statement at the end of the investigation process.
11. At the conclusion of the investigation and **within 60 days** of the interview with the complainant, the Title VI Manager will prepare a report that includes a narrative description of the incident, identification of persons interviewed, findings, and recommendations for disposition. This report will be provided to the Authorizing Official, the MTA, and if appropriate our legal counsel.
12. The Title VI Manager will send a letter to the complainant notifying them of the outcome of the investigation. If the complaint was substantiated, the letter will indicate the course of action that will be followed to correct the situation. If the complaint is determined to be unfounded, the letter will explain the reasoning, and refer the complainant to MTA in the event the complainant wishes to appeal the determination. This letter will be copied to MTA.
13. A complaint may be dismissed for the following reasons:
  - a. the complainant requests the withdrawal of the complaint
  - b. an interview cannot be scheduled with the complainant after reasonable attempts
  - c. The complainant fails to respond to repeated requests for additional information needed to process the complaint



## TRANSPORTATION-RELATED TITLE VI INVESTIGATIONS, COMPLAINTS, AND LAWSUITS

### Background

All sub-recipients shall prepare and maintain a list/log of any of the following that allege discrimination on the basis of race, color, or national origin:

- Active investigations conducted by FTA and entities other than FTA;
- Lawsuits; and
- Complaints naming the recipient.

This list/log shall include the date that the transportation-related Title VI investigation, lawsuit, or complaint was filed; a summary of the allegation(s); the status of the investigation, lawsuit, or complaint; and actions taken by the recipient in response, or final findings related to the investigation, lawsuit, or complaint. This list/log shall be included in the Title VI Program submitted to MTA every three years and information shall be provided to MTA quarterly and annually.

***NOTE, the sample below is provided for the purposes of tracking and documenting your civil rights (Title VI, EEO and ADA) investigations, lawsuits and/or complaints. It may be modified to suit your agency needs but must include all essential elements described above, and it may not be used to replace the agency's Complaint Form. Provide your list/log as APPENDIX C.***

### SAMPLE List of Investigations, Lawsuits and Complaints

	Date (Month, Day, Year)	Summary (include basis of complaint: race, color or national origin)	Status	Action(s) taken
<b>Investigations</b>				
1.				
<b>Lawsuits</b>				
1.				
<b>Complaints</b>				
1.				

## **PUBLIC OUTREACH AND INVOLVEMENT - Public Participation Plan**

### **Introduction**

The Public Participation Plan (PPP) is a guide for ongoing public participation endeavors. Its purpose is to ensure that [Name of Agency] utilizes effective means of providing information and receiving public input on transportation decisions from low income, minority and limited English proficient (LEP) populations, as required by Title VI of the Civil Rights Act of 1964 and its implementing regulations.

Under Federal regulations, 5310 service providers must take reasonable steps to ensure that Limited English Proficient (LEP) persons have meaningful access to their programs and activities. This means that public participation opportunities, normally provided in English, should be accessible to persons who have a limited ability to speak, read, write, or understand English.

In addition to language access measures, other major components of the PPP include: public participation design factors; a range of public participation methods to provide information, to invite participation and/or to seek input; examples to demonstrate how population-appropriate outreach methods can be and were identified and utilized; and performance measures and objectives to ensure accountability and a means for improving over time.

[Name of Agency] established a public participation plan or process that will determine how, when, and how often specific public participation activities should take place, and which specific measures are most appropriate.

[Name of Agency] will make these determinations based on a demographic analysis of the population(s) affected, the type of plan, program, and/or service under consideration, and the resources available. Efforts to involve minority and LEP populations in public participation activities may include both comprehensive measures, such as placing public notices at all transit stations, stops, and vehicles, as well as targeted measures to address linguistic, institutional, cultural, economic, historical, or other barriers that may prevent minority and LEP persons from effectively participating in our decision-making process.

**NOTE: FTA has developed a Circular, 4703.1, “Environmental Justice Policy Guidance for Federal Transit Administration Recipients,” that includes many examples of effective strategies for engaging minority and low-income populations. FTA Chap. III-5 FTA C 4702.1B encourages recipients to review that Circular for ideas when developing their public engagement strategy.**

**A sample of effective public outreach practices follows. It is possible that a private non-profit agency may not have to employ many or any of these practices, but you must document this if such is the case.**

**A SAMPLE OF EFFECTIVE PUBLIC OUTREACH PRACTICES INCLUDE:**

- a. Determining and identifying what meetings and program activities lend themselves to client public participation.
- b. Scheduling meetings at times and locations that are convenient and accessible for minority and LEP communities.
- c. Employing different meeting sizes and formats.
- d. Coordinating with community and faith-based organizations, educational institutions, and other organizations to implement public engagement strategies that reach out specifically to members of affected minority and/or LEP communities.
- e. Considering radio, television, or newspaper ads on stations and in publications that serve LEP populations. Outreach to LEP populations could also include audio programming available on podcasts.
- f. Providing opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments.

***You will submit as part of APPENDIX D-Public Participation Plan a summary of the public outreach activities your organization has participated over the past year(s) which may include the specific practices above and/or others your agency has been engaged in.***

## ACCESS FOR LIMITED ENGLISH PROFICIENT (LEP) PERSONS

### LANGUAGE ASSISTANCE PLAN (LAP)

#### **Introduction and Legal Basis**

LEP is a term that defines any individual not proficient in the use of the English language. The establishment and operation of an LEP program meets objectives set forth in Title VI of the Civil Rights Act and Executive Order 13116, Improving Access to Services for Persons with Limited English Proficiency (LEP). This Executive Order requires federal agencies receiving financial assistance to address the needs of non-English speaking persons. The Executive Order also establishes compliance standards to ensure that the programs and activities that are provided by a transportation provider in English are accessible to LEP communities.

As required, [Name of Agency] developed a written LAP Plan (below) to address the needs of the LEP population(s) it serves. Using 2010 and American Community Survey (ACS) Census data, [Name of Agency] has evaluated data to determine the extent of need for translation services of its vital documents and materials.

LEP persons can be a significant market for public transit, and reaching out to these individuals can help increase their utilization of transit. Therefore, it also makes good business sense to translate vital information into languages that the larger LEP populations in the community can understand.

#### **Assessment of Needs and Resources**

The need and resources for LEP language assistance were determined through a four-factor analysis as recommended by FTA guidance.

- Factor 1:      Assessment of the Number and Proportion of LEP Persons Likely to be Served or Encountered in the Eligible Service Population**
- Factor 2:      Assessment of Frequency with Which LEP Individuals Come Into Contact with the Transit Services or System**
- Factor 3:      Assessment of the Nature and Importance of the Transit Services to the LEP Population**
- Factor 4:      Assessment of the Resources Available to the Agency and Costs**

**THIS LANGUAGE ACCESS PLAN (LAP) IS TO BE INCLUDED AS APPENDIX E**

**LANGUAGE ACCESS PLAN TEMPLATE**

AGENCY NAME

Language Access Plan

**I. Introduction**

The Agency has prepared this Language Access Plan (“LAP” or “Plan”), which defines the actions to be taken by Agency to ensure meaningful access to agency services, programs and activities on the part of persons who have limited English proficiency. The Agency will review and update this LAP in order to ensure continued responsiveness to community needs. This Plan meets objectives set forth in Title VI of the Civil Rights Act and Executive Order 13116, Improving Access to Services for Persons with Limited English Proficiency (LEP).

**II. Purpose**

The purpose of this plan is to ensure clients of the Agency meaningful access to services, programs and activities although they may be limited in their English language proficiency.

The Agency is committed to this Language Access Plan as the appropriate response to meeting our clients’ needs.

Consistent with the guidance of objectives set forth in Title VI of the Civil Rights Act and Executive Order 13116, Improving Access to Services for Persons with Limited English Proficiency (LEP), a Limited English Proficient (“LEP”) person is someone who is not able to speak, read, write or understand the English language at a level that allows him/her to interact effectively with Agency staff. A client maintains the right to self-identify as a LEP person.

**III. Agency Description**

The Agency should use this section to describe the Agency, its mission, services, programs and activities as fully but as succinctly as possible.

**IV. Language Access Plan:**

Approach: The Agency Language Access Plan shall be fully implemented subject to the availability of fiscal resources to implement said language access plan. This Language Access Plan represents Agency administrative blueprint to provide meaningful access to Agency services, programs and activities on the part of LEP individuals. This Language Access Plan outlines the tasks Agency will undertake to meet this objective.

Language Access Plan:

(1) Agency Language Access Coordinator:

(Identify the Language Access Coordinator, agency contact information including address, telephone number and email address)

(2) Agency Language Access Needs Assessment:

- a. Based on the services, programs and activities listed above prioritize and describe the steps the agency will take to ensure such services, programs and activities provide meaningful access to the populations whose language meet or exceed the 5% threshold.

- b. Language makeup of client population

(Each language and the percentage of the language's presence should be identified and listed in this section)

- c. Points of contact between agency and client population

(Agency Office, website address (es), main telephone numbers, etc.)

(3) Language Resources Assessment:

- a. Identification of existing staff who are linguistically, culturally, and technically able to deliver services in a language other than English and/or to serve as interpreters

(Actual staff need not be identified; languages spoken should be)

- b. Community-based resources available to be deployed to assist agency in meeting language access needs

(4) Language Service Protocols:

- a. Which language services are required to implement the Language Access Plan

(In this section, the Agency shall indicate the specific types of resources – in-person interpretation, phone interpretation, community-based resources, etc., that are available to provide language access and how the resources will be deployed to meet language access needs)

- b. Define and describe Agency's language access protocols for providing interpretation services

- c. Define how a client will be able to access and utilize the resources identified in paragraphs (a) and (b)

(5) Vital Document Translation:

- a. Agency to identify, by list, the name of vital documents, in whole or in part, to translate including timeframe for translation
- b. Agency website content, by list, to translate including timeframe for translation

(6) Stakeholder Consultations:

(Did the Agency consult stakeholders in the development of this Language Access Plan? – Description of consultation)

(7) Staff Training:

(Describe the Agency's plan to implement staff training activities)

(8) Notice to Public.

(Describe the Agency's plan to notify clients of free language assistance and how a client may access such assistance)

(9) Agency Monitoring:

(Describe the agency's monitoring plan)

(10) Complaints:

(Agency should identify the process by which a client or client representative may file a complaint with the Title Six Manager)

---

NAME OF AGENCY HEAD

---

DATE

**Language Access Complaint Procedure** *(Note, your Title VI Complaint Form and Procedure can be used for LEP/LAP complaints as long as your Title VI Complaint Form and Procedure acknowledges and accepts LEP/LAP complaints as separate and distinct from Title VI).*

(To be included as an attachment to LAP)

**You may file a complaint with the Agency Title VI Manager if you believe you have been denied the benefits of this Plan. You must file your written complaint within \_\_\_\_\_ of the alleged denial. Submit the written complaint to:**

**Name of Title VI Manager:**

**Agency Name:**

**Business Address:**

**City, State Zip:**

**Email Address:**



**MINORITY REPRESENTATION ON PLANNING AND ADVISORY BODIES**

Title 49 CFR Section 21.5(b)(1)(vii) states that a recipient may not, on the grounds of race, color, or national origin, “deny a person the opportunity to participate as a member of a planning, advisory, or similar body which is an integral part of the program.”

**[Name of Agency]** has transit-related, non-elected planning boards, advisory councils or committees, or similar committees, the membership of which we select.

1. *Please provide a description of your selection process, including recruitment efforts made to encourage the participation of minorities on such committee(s)*
2. *Please provide a table(s) depicting the racial breakdown of the membership of those committees*

*The Sample below is provided for the purposes of guidance only*

Committee	Black or African American	White/ Caucasian	Latino/ Hispanic	American Indian or Alaska Native	Asian	Native Hawaiian or other Pacific Islander	Other <i>*Note</i>	Totals
Citizens Advisory Committee (CAC)	7	6	0	0	0	0	2	15
% of CAC Committee	46.6	40.0	0	0	0	0	13.3	99.9
Citizens Advisory Committee on Accessible Transportation (CACAT)	8	5	0	0	0	0	1	14
% of CACAT Committee	57.0	35.7	0	0	0	0	7.0	99.7

*\*Note – Other races reported: Lithuania, Ukrainian, and Polish*

**SEE APPENDIX F- TABLE MINORITY REPRESENTATION ON COMMITTEES BY RACE**



## Human Service Sample ADA Template

(This Template is not appropriate for agencies providing public fixed route or ADA complementary paratransit services. Human Service agencies are to place this Template on its agency letterhead. This ADA policy should be signed and dated by the human service agency official authorized to sign your grant agreements.)

### Americans with Disabilities Act of 1990 (ADA) Policy and Procedures

Date: \_\_\_\_\_

**Purpose:** This policy is written to establish operating and service guidelines and procedures for the implementation of the requirements of the American with Disabilities Act of 1990 (ADA), the U.S. Department of Transportation regulations for implementing ADA (49 CFR Parts 27, 37 and 38), and applicable Maryland laws and regulations. All services operated by the (Name of Agency) human service transportation system are operated on a demand response basis and the system complies with ADA requirements with respect to such services.

**Policy:** It is the policy of (Name of Agency) human service transportation system to comply with all the legal requirements of Federal and State laws and regulations as they pertain to individuals with disabilities. The (Name of Agency) human service transportation system provides quality transportation services without discrimination to all eligible clients including eligible individuals with disabilities. Discrimination on the basis of disability against any eligible client by (Name of Agency) employees will not be condoned or tolerated.

**Goals:** Service is provided in a manner that meets these goals to:

1. provide individual, dignified services to all eligible individuals including eligible individuals with disabilities.
2. expedite the safe and efficient boarding, securing, transporting and alighting of all eligible clients, regardless of mobility status.
3. accommodate the wide range of mobility aids within the confines of available vehicles and commercial standard equipment.

**Applicability:** This policy applies to all (Name of Agency) employees, services, facilities and vehicles. It applies equally to all eligible individuals needing and/or using the services provided by the system.

#### Definitions:

*Wheelchair:* a mobility aid belonging to any class of three- or more-wheeled devices, usable indoors, designed or modified for and used by individuals with mobility impairments, whether operated manually or powered.

*Disability:* A physical or mental impairment that substantially limits one or more major life activities.

*Mobility Aid/Non Wheelchair Mobility Device:* A device used by an individual with a mobility impairment to assist with mobility but does not meet the requirements of a wheelchair as defined by

ADA. These include but are not limited to canes, crutches, walkers, wheeled walkers, and “segways” when used by an individual with a mobility related disability.

*Securement Equipment:* Equipment used for securing wheelchairs against uncontrolled movement during transport.

*Securement Station:* Space specifically designed to secure and stabilize wheelchairs on human service agency vehicles.

*Service Animal:* Any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

**Recruitment and Employment:** As stated in the (Name of Agency) personnel policies, the agency is an Equal Opportunity Employer and fully complies with ADA in its recruitment, hiring and continued employment practices.

**Facility and Vehicle Accessibility:** The (Name of Agency) administrative facility, passenger facilities and vehicles shall meet or exceed the requirements of 49 CFR Parts 27, 37 and 38 and the State of Maryland. Vehicles purchased for human service transportation purposes will only be non-accessible to the extent that the system, when viewed in its entirety, provides the same level of service to individuals with disabilities, including individuals who use wheelchairs as individuals without disabilities.

**Vehicle and Route Assignment:** To the extent possible, the assignment of particular types of vehicles will be based upon eligible client needs. However, in the interest of preparedness, standard operating procedures shall be to station accessible vehicles first on runs that operate on a daily basis and have the potential for accessibility needs on a given day, second on runs that have a history of higher accessibility needs and third on all other runs. The (Name of Agency) will make all reasonable efforts to make an accessible vehicle available whenever requests are made. Trip denials will be tracked by disability to monitor whether trips are disproportionately denied to individuals with disabilities because an accessible vehicle is not available. Should this be found to be the case, inaccessible vehicles will be replaced with accessible vehicles until the system, when viewed in its entirety, is accessible.

**Wheelchair Accommodation:** Human service transportation providers are required to carry a wheelchair and its user, as long as the lift can accommodate the size and weight of the wheelchair and its user, and there is space for the wheelchair on the vehicle. If a vehicle lift/ramp and securement area can accommodate a mobility device, (Name of Agency) will transport the device (and its user).

**Boarding:** Drivers will provide adequate time for a client/passenger with a disability to board and/or disembark the vehicle, which includes adjusting the schedule if necessary to accommodate slower clients/passengers and waiting for clients/passengers to be seated before moving the vehicle. It is the responsibility of the [Choose one: Driver or (Name of Human Service Agency)] to determine the safest location for passenger boarding based on conditions and individual needs upon arrival at the pick-up site. The passenger and/or their guest, escort or attendant will maneuver the client/passenger and mobility aid to the vehicle. Only a properly trained (Name of Agency) employee (driver) can operate the lift, secure the wheelchair on the lift and in the securement station.

**Priority Seating:** With the exception of the wheelchair securement stations, the (Name of Agency) does not require any passenger to sit in designated seating. However, this does not supersede the (Name of Agency)'s right to require any passenger who has caused a disruption in the safe travel of other clients/passengers and/or driver to be required to sit in a specific area of the vehicle as a condition of transportation. Further, nothing in this section prohibits (Name of Agency) from designating specified seating in order to meet the special travel needs of its clients.

Priority seating for people with disabilities is designated by permanent signage in each vehicle. In cases where an individual with a disability requests use of priority seating that currently is occupied by another client/passenger, the driver will ask that client/passenger to allow the individual with a disability to use of the seat.

**Driver Assistance:** Drivers will make themselves available for assistance to individuals with disabilities and will assist upon request of the passenger. Drivers will leave their seat to assist a client/passenger with using the vehicle ramp, lift and/or securement systems.

**Securement:** Securement of the wheelchair class of mobility devices is the responsibility of the driver, and drivers will be trained in the proper operation of all securement equipment based on manufacturer specifications. Non-wheelchair mobility aids are the responsibility of the individual client/passenger; however, it must be secured in a manner that does not interfere with the safe operation of the vehicles and the transport of other client/passengers. Drivers should not allow a client/passenger to ride if they are not secured properly unless the securement system will not accommodate the wheelchair. If the tie-down system is not compatible for the wheelchair the client/passenger is using, the driver will still make an attempt to safely secure the wheelchair. If the wheelchair can not be secured because of the wheelchair design, the client/passenger still has the right to ride the vehicle. Drivers cannot deny a passenger a ride based on the inability to secure the wheelchair. However, drivers must warn the client/passengers of the danger of riding in a non-secured wheelchair. Client/passengers who refuse to allow their wheelchairs to be secured may be denied service. Drivers must secure wheelchairs in the designated securement area only, even if the client/passenger wants their mobility device to be secured in a non-designated area.

*[Note: select one of the following statements depending on your agency's seatbelt policy. Make sure all riders are treated the same].* Seat belts and shoulder harnesses are recommended but not required for client/passengers riding in their secured wheelchair; **or,** seat belts and shoulder harnesses are required for ALL client/passengers.

**Transfer to Fixed Seating:** All client/passengers using seated mobility devices have an option of transferring to fixed seating once on board the vehicles. Drivers may recommend, but never require, users of seated mobility devices to transfer to fixed seating.

**Service Animals:** In compliance with 49 CFR Part 37, (Name of Agency) allows trained service animals to accompany passengers with disabilities. The driver will not ask for proof of the qualifications of the animal, but may ask what tasks the animal has been trained to perform. However, any animal which is not under the client/passenger's control or which becomes a threat to other client/passengers may be restricted from riding.

**Alighting:** It is the responsibility of the (Name of Agency)/Driver to determine that the location for passenger alighting is safe. However, the driver will allow a client/passenger who uses the lift to

disembark at any location, unless the lift cannot be deployed, the lift will be damaged if deployed; or conditions at the stop would present unsafe conditions for all passengers. The driver will unsecure the wheelchair and operate the lift to return the client/passenger to the ground level. Only a properly trained [Name of Agency] employee can operate the lift, secure the wheelchair on the lift and in the securement station.

**Use of Accessibility Devices by Individuals Not Using a Wheelchair:** A client/passenger who is not using a wheelchair or other seated mobility aid may use the lift to board or alight the vehicle upon request.

**Maintenance of Accessible Features:** Accessibility features on vehicles, including lifts and wheelchair securement devices, will be maintained in operative condition. This includes providing preventive maintenance on lifts as recommended by the equipment manufacturers, cycling the lift as part of each pre-trip inspection\*, taking vehicles with inoperative lifts out of service, and repairing inoperative equipment promptly. Drivers are required to report lift failures as soon as possible. *(\*Note: lift cycling as part of the pre-trip inspection is not required by ADA but is required by MTA as a way to comply with the Federal ADA requirement that human service agencies conduct regular and frequent lift checks sufficient to determine if lifts are actually operative).*

**Accommodation of Portable Oxygen:** Clients/passengers are allowed to travel with respirators, concentrators and portable oxygen supplies on board, consistent with applicable U.S. Department of Transportation rules on the transportation of hazardous materials.

**Staff Training:** All drivers and [Name of Agency] staff are trained to proficiency in use of accessibility equipment, the operating policies related to each of the service requirements described, and in properly assisting and treating individuals with disabilities with sensitivity. [Name of Agency] mechanics are also trained to properly maintain lifts and other accessibility equipment.

**Rider Information:** All [Name of Agency] printed informational materials are made available in accessible formats upon request, for example, large print for individuals with low vision or audio for blind individuals, as well as accessible electronic formats.

**Complaint Procedure:** All complaints of discrimination on the basis of disability will be promptly and objectively investigated and forwarded to the \_\_\_\_\_. Corrective or disciplinary action will be taken for behavior prohibited by this policy, up to and including termination of employment. *(Note: you may use the Complaint Form and procedures developed for your Title VI Program if they are to be the same. If you do, just reference such here. If you will have a differing ADA Complaint Form and procedures, then you will need to attach them to this ADA Program. A sample ADA Complaint Form is found on the last page of this template.)*

**Modification of Policy:** If a client/passenger requires modification of any of these policies to accommodate their disability, they may request such a modification by contacting \_\_\_\_\_. The [Name of Agency] will work with the individual to find an accommodation solution.

**SAMPLE – ADA-RELATED COMPLAINT FORM**

[Name of Agency] is committed to providing safe and accessible transportation services. Any person who believes she or he has been discriminated against on the basis of disability by [Name of Agency] may file a complaint by completing and submitting this form to its offices at [Street Address], or by mail to: [Mailing Address]. You may also file your complaint [by phone, email, etc.] at [phone, email, name of ADA officer, etc.]. Please make sure to provide us with your contact information in order to receive a response.

**SECTION I: CONTACT INFORMATION**

Name of individual discriminated against:

Rider/Client ID (if applicable):

Street Address:

City, State, Zip code:

Telephone (Home):

Telephone (Work, Cell, Other):

Email:

Accessible Format Requirements:

☐ Large Print      ☐ TDD/Relay      ☐ Audio Recording      ☐ Other: \_\_\_\_\_

If you are completing this form on behalf of the individual named above, please complete the following:

- a. Please indicate the relationship you have with the person who is filing the complaint:
- b. Explain why you are completing this form for the person filing the complaint:
- c. Please confirm that you have obtained the permission to complete this form from the person filing the complaint. ☐ Yes ☐ No
- d. Your contact information:

Name:

Address:

Telephone (Home):

Telephone (Work):

Email:

Accessible Format Requirements:

☐ Large Print      ☐ TDD/Relay      ☐ Audio Recording      ☐ Other: \_\_\_\_\_

SECTION II: COMPLAINT DETAILS

Date of Occurrence:

Explain as clearly as possible what happened and why you believe you were discriminated against. Include the location and describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known) as well as names and contact information of any witnesses. If more space is needed, please use additional sheets. You may also attach any written materials or other information that you think is relevant to your complaint.

Mobility Aid Used (if any):

Have efforts been made to resolve this complaint? ☐ No ☐ Yes - If yes, what is the status?

Have you previously filed an ADA complaint with [Name of Agency]? ☐ No ☐ Yes - If yes, please indicate date of previous complaint:

Have you filed this complaint with any other local, State, or Federal agency, or with any Federal or State court? ☐ No ☐ Yes - If yes, please indicate which agency(ies) or court(s):

SECTION III: FOLLOW-UP

What corrective actions do you believe would address your complaint?

Would you like a response following our investigation of this complaint? ☐ Yes ☐ No

May we contact you if we need more details or information? ☐ Yes ☐ No

What is the best way to reach you? (Choose One) [Phone, Email, etc.]

If a phone call is preferred, what is the best day and time to reach you?

SIGNATURE AND DATE REQUIRED BELOW

Signature:

Date:



# ***EQUAL EMPLOYMENT OPPORTUNITY POLICY AND PROCEDURES***

**This policy template addresses the basic requirements that all Section 5310 subrecipients must meet in developing their required EEO policy.**

Organizations which meet FTA thresholds for a formal EEO program have more extensive requirements that are not addressed in this template. If your organization has 50 or more transportation-related employees or received more than \$1 million in FTA capital or operating assistance or more than \$250,000 in FTA planning assistance in the fiscal year, contact MTA for additional guidance.

**Name of Organization**  
**Address of Organization**  
**State of Organization**

**Date**

---

Name/Signature of EEO Officer

Date

---

Name/Signature of Head of Organization

Date

## **TABLE OF CONTENTS**

- A. EEO Policy Statement
- B. Dissemination
- C. Complaint Procedure
- D. Designation of Personnel Responsibilities

**EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT**

This document:

- Is a signed and dated EEO policy statement issued by the Chief Executive Officer/General Manager, or equivalent (CEO/GM), regarding the organization's commitment to EEO for all persons.
- Expresses the agency's commitment that all employment actions, including but not limited to recruitment or recruitment advertising, hiring, upgrading, selection for training, promotion, transfer, demotion, layoff, termination, rates of pay or other forms of compensation, use of facilities, and treatment of employees will be administered without regard to race, color, religion, national origin, sex (including gender identity and sexual orientation), age, genetic information, disability, veteran status, or other protected class.
- States that applicants and employees have the right to file complaints alleging discrimination with the EEO Officer or office
- States that all management and supervisory personnel share in the responsibility.
- Provides the name and contact information for the EEO Officer.

The FTA has developed the following sample EEO Policy Statement for its grantees:

[Agency Name] has a strong commitment to the community we serve and our employees. As an equal opportunity employer, we strive to have a workforce that reflects the community we serve. No person is unlawfully excluded from employment opportunities based on race, color, religion, national origin, sex (including gender identity and sexual orientation), age, genetic information, disability, veteran status, or other protected class.

[Agency Name] Equal Employment Opportunity (EEO) policy applies to all employment actions, including but not limited to, recruitment, hiring, selection for training, promotion, transfer, demotion, layoff, termination, rates of pay or other forms of compensation, and use of facilities.

All applicants and employees have the right to file complaints alleging discrimination. As [Agency Name]'s [President, General Manager/CEO, Executive Director], I maintain overall responsibility and accountability for [Agency Name]'s compliance with its EEO Policy and Program. To ensure day-to-day management, including program preparation, monitoring, and complaint investigation, I have appointed [Name, title and contact information] as [Agency Name]'s EEO Officer. [Name] will report directly to me and acts with my authority with all levels of management, labor unions, and employees.

All [Agency Name] executives, management, and supervisory personnel, however, share in the responsibility for implementing and monitoring [Agency Name]'s EEO Policy and Program within their respective areas and will be assigned specific tasks to ensure compliance is achieved. [Agency Name] will evaluate its managers' and supervisors' performance on their successful implementation of [Agency Name]'s policies and procedures, in the same way [Agency Name] assesses their performance regarding other agency's goals.

I am personally committed to a workplace that acts upon its daily responsibility to treat all applicants and employees with dignity and respect, as well equitably under the guidelines of our EEO Policy.

---

Signature Date [President, General Manager/CEO, Executive Director]

**A. EEO POLICY DISSEMINATION****➤ Internally**

[Agency Name] communicates the existence of its EEO policy to employees, applicants and potential applicants by:

- Providing written communications from the CEO/GM
- Posting official EEO materials (e.g., Federal and state labor laws poster(s)) and the agency's policy statement on bulletin boards, near time clocks, in employees' break rooms, and in the employment/personnel office
- Including the EEO policy statement in the agency's personnel and operations manual, employee handbooks, reports and manuals
- Meeting with top management officials (e.g., bus operations, human resources, planning, marketing, etc.) at least quarterly to discuss the EEOP and its implementation
- Meeting with employees of protected classes and affinity groups to seek input on the program implementation
- Conducting periodic EEO training for employees and for managers
- Conducting EEO training for all new supervisors or managers within 30 days of their appointment
- Including the policy statement in employee orientation materials and requiring new employees to sign a form acknowledging they have read and understand the policy.
- FTA requires appropriate Documenting dissemination efforts by maintaining agendas and sign-in sheets for meetings conducted when the EEO policy and its implementation are explained.

**➤ Externally**

[Agency Name] communicates the existence of its EEO policy externally by:

- Including the EEO policy with outreach and/or advertising to recruitment sources, local media sources (newspapers, etc.), in agency's webpage or other electronic media (Facebook, etc.)
- Stating that the agency "is an equal employment opportunity employer" on all recruitment ads (e.g., newspapers, magazines, websites, and social media)

**B. EEO COMPLAINT PROCEDURE**

All employees and applicants have the right to file complaints alleging discrimination on the basis of race, color, creed, national origin, sex, age or disability, regardless of whether the agency has a formal EEO Program (as required for larger organizations). Subrecipients should have procedures in place for receiving, processing and handling such complaints. All EEO complaints must be reported to MTA.

[Agency Name]'s procedure for handling EEO employment complaints is as follows:

Insert details of your Agency's EEO procedures for receiving, processing and handling EEO complaints.

Attach a copy of your EEO complaint form (an example is attached).

**SAMPLE – EMPLOYMENT DISCRIMINATION COMPLAINT FORM**

For Use by [Agency Name] EEO Office _____ vs. _____
Date Received: _____
Investigator Assigned: _____

[Agency Logo]  
[Agency Name]  
Office of [Human Resources, Employment, etc.]  
[Contact information for EEO Officer]

Contact information\*:

Last Name: \_\_\_\_\_ First: \_\_\_\_\_ M.I.: \_\_\_\_\_

Home Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Home Telephone (\_\_\_\_) \_\_\_\_\_

Office Telephone (\_\_\_\_) \_\_\_\_\_

\*Please notify the [Agency Name] EEO Officer of any changes of address and telephone number during the period of the investigation.

Title: \_\_\_\_\_ Unit/Dept.: \_\_\_\_\_

Supervisor/Manager's Name: \_\_\_\_\_

Name of person or department you believe discriminated against you: \_\_\_\_\_

What is the basis of the alleged discrimination? (Circle only those that apply to your complaint)

Age	Marital Status	Ancestry	Genetic Information
Color	Race	Creed	Religion
Disability	Sex (gender)	Disability	National Origin
Sexual Orientation	Retaliation	Gender Identity and Expression	Pregnancy

What issues are associated with your complaint?

Recruitment \_\_\_\_\_

Sexual Harassment \_\_\_\_\_

Failure to Hire \_\_\_\_\_

Transfer \_\_\_\_\_

Performance Evaluation \_\_\_\_\_

Promotion \_\_\_\_\_

Demotion \_\_\_\_\_

Working Conditions \_\_\_\_\_

Discharge \_\_\_\_\_

Other \_\_\_\_\_

When did the alleged discrimination occur? Date: \_\_\_\_\_

Where did the alleged discrimination occur? Location:

\_\_\_\_\_

Describe what happened. (Please use extra pages if necessary.)

\_\_\_\_\_  
\_\_\_\_\_  
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Were there any witnesses to the alleged discrimination? Yes \_\_\_\_ No \_\_\_\_

If yes, please provide witnesses names and contact numbers.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Have efforts been made to resolve this complaint? Yes \_\_\_\_ No \_\_\_\_ If yes, what is the status?

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What corrective action do you believe would address your complaint?

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Have you filed a previous complaint of alleged discrimination? Yes \_\_\_\_ No \_\_\_\_  
If so, please describe the incident and when it occurred.

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Have you filed a complaint regarding this matter with any other entity? Yes \_\_\_\_ No \_\_\_\_

If yes, with what agency or organization did you file? \_\_\_\_\_

Would you like to participate in Mediation? Yes \_\_\_\_ No \_\_\_\_

AFFIRMATION

I affirm under the penalty of perjury that I have read the above complaint and that it is true to the best of my knowledge, information and belief.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**C. DESIGNATION OF EEO PERSONNEL RESPONSIBILITIES**

- The Agency should appoint an EEO Officer who has sensitivity to, and an awareness of, the varied ways discrimination occurs, total commitment to program goals and objectives, knowledge of civil rights laws, policies, rules, regulations, and guidelines, and sufficient authority and ability to work and communicate with others to achieve EEO goals and objectives.
- Discuss EEO Officer Responsibilities to include:
  - Developing (or updating) the EEO policy statement
  - Reviewing the agency's nondiscrimination policy with all managers and supervisors to ensure that the policy is understood and is followed in all personnel activities
  - In conjunction with human resources, periodically reviewing employment practices policies (e.g., hiring, promotions, training), complaint policies, grievance procedures, and union agreements
  - Serving as liaison between the agency, Federal, state, county, and local governments, regulatory agencies, minority, women, disability organizations, and other community groups
  - Maintaining awareness of current EEO laws, and ensuring the laws affecting nondiscrimination are disseminated to responsible officials
  - Investigating complaints of discrimination
  - Providing EEO training for employees and managers
  - In conjunction with human resources, advising employees and applicants of available training programs and professional development opportunities and the entrance requirements
  - Auditing postings of the EEO policy statement to ensure compliance information is posted and up-to-date
- Discuss Agency EEO Responsibilities:

Although the EEO Officer is primarily responsible for implementing an agency's EEO policies and procedures, all officials, managers, and supervisors are responsible for carrying out EEO and do not discriminate based on a protected class. All managers—from the supervisor of the smallest unit to the Board Chair or CEO/GM—bear responsibility for ensuring that agency EEO policies and procedures are carried out.

EEO responsibilities for agency officials, supervisors and managers include:

- Participating actively in periodic audits of all aspects of employment to identify and to remove barriers obstructing the achievement of specified goals and objectives
- Holding regular discussions with other managers, supervisors, employees, and affinity groups to ensure agency policies and procedures are being followed



- Cooperating with the EEO Officer in review of information and investigation of complaints
- Encouraging employee participation to support the advancement of EEO (e.g., professional development and career growth opportunities, posting promotional opportunities, shadowing, mentoring)
- A good practice is to establish an advisory committee that reflects all segments of the community and the agency's workforce. Though broader than EEO, another good practice is to implement diversity and inclusion strategies. This can include work with affinity groups or diversity advisory committee(s) and/or use of suggestion boxes (written or electronic).



## Chapter 4 - Purchasing, Procurement & Contracting

***Important: All subrecipients must consult with their MTA 5310 Program Manager or Regional Planner for any FTA- and/or MTA-funded purchases exceeding \$300 for purchases funded by capital grants and \$3,000 for purchases funded by operating grants. MTA concurrence is needed for any grant-funded purchase exceeding these thresholds.***

### INTRODUCTION

Federal and State requirements related to purchasing, procurement, and third-party contracting are intended to ensure contracts that make use of Federal and State funds:

- are consistently managed following locally established procedures that ensure compliance with State and Federal procurement requirements,
- are not awarded to fraudulent, debarred, or technically unqualified vendors,
- are cost-efficient - price consistent with the current market,
- provide qualified vendors a fair opportunity to obtain contracted work through full and open competition (without local geographic preference),
- do not discriminate against businesses owned by persons of racial or ethnic minorities or women (i.e., comply with DBE requirements),
- make preference for materials manufactured in the United States (i.e., complying with Buy America requirements), as applicable, and
- include contract clauses that require contractors to comply with applicable Federal and State requirements.

As part of the grant application process, each applicant for Section 5310 funding certifies that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders or regulations and the requirements of FTA Circular 4220.1F, "Third Party Contracting Guidance."

Subrecipients also must certify that they will not discriminate on the basis of race, color, national origin, or sex in awarding contracts and sub-agreements supported by US DOT funds, and will comply with DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 CFR Part 26. All subrecipients that receive planning, capital (excluding transit vehicles), and/or operating assistance and will award prime contracts exceeding

\$250,000 in FTA funds in a fiscal year are required by FTA to have a Disadvantaged Business Enterprise (DBE) program. Few Section 5310 subrecipients will meet or exceed this threshold. Should this occur, MTA will work with the subrecipient to develop and implement a formal DBE program.

It is important to emphasize that this chapter is not an all-inclusive reference on Federal and State procurement and contracting requirements. Federal requirements are extensive, and FTA has prepared detailed guidance on these requirements. Subrecipients are advised to review FTA Circular 4220.1 carefully. This circular is frequently updated. At the time of preparing this manual, the most recent version was 4220.1F, revised through March 2013. This circular can be found online at <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance>. Appendix 4A provides a more expansive description of the procurement requirements for FTA subrecipients, particularly as they apply to larger purchases (valued over \$25,000).

## PROCUREMENT RESPONSIBILITY

All procurement activities are the responsibility of the subrecipients. However, the MTA conducts a centralized procurement for small buses funded by the Section 5310 program and subrecipients awarded this type of vehicle must participate in the State procurement of small buses rather than procuring FTA grant-funded vehicles locally.

Subrecipients must procure other equipment, including equipment that is installed on vehicles after delivery from the factory, such as mobile radios. Funding for such equipment must be applied for separately from the vehicle in the grant application, and the equipment must be procured by the subrecipient under a separate procurement process from the vehicle. Other equipment that the subrecipient must procure themselves includes computer hardware and software.

Service contracts and purchases that make use of Federal or State funds are also subject to procurement requirements. This includes administrative services (legal, accounting, insurance) as well as vehicle operations and maintenance.

As noted earlier, as part of the grant application process, each subrecipient is required to self-certify that its procurement system complies with Federal requirements for any FTA-assisted third-party contract the subrecipient undertakes and administers.

## MTA CONCURRENCE

Because of the scope and complexity of Federal and State procurement requirements (summarized in this chapter), all subrecipients are required to consult with the MTA Office of Local Transit Support for guidance before engaging in any procurement activities that make use of Federal and/or State funds.

**The MTA must concur in writing with subrecipient solicitation documents prior to initiation of the procurement process for all items purchased with capital and technical assistance funds, as well as for all items purchased through small purchase, sealed bids, competitive proposal, competitive negotiation, or noncompetitive negotiation.** This includes MTA written approval of bid specifications for vehicles and equipment.

The MTA must also concur in writing with the recommendation for award prior to the execution of a local contract or purchase order valued more than:

- \$300 if capital grant funds are involved, or
- \$3,000 if operating grant funds are involved.

## ETHICS/WRITTEN STANDARDS OF CONDUCT

Subrecipients must maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. These standards must prohibit conflict of interest in the selection, award, or administration of a contract supported with FTA assistance, the acceptance of gifts, gratuities, favors, or anything of monetary value from contractors or subcontractors, and provide for disciplinary action for violation of such standards. A sample of a code of ethics/conduct is provided as Attachment 4.A.

FTA takes very seriously the requirement to avoid conflicts of interest in conducting procurements and awarding FTA-funded contracts, and any form of fraud can be prosecuted as a criminal act.

## CONTRACT ADMINISTRATION SYSTEM

Subrecipients must maintain a contract administration system that ensures that:

- Subrecipients have written procurement and purchasing procedures that address each of the requirements described in this chapter and as listed in FTA Circular 4220.1F, pages III-2 and III-3.
- All procurements funded wholly or in part with MTA and FTA funds are done in accordance with State and Federal regulations,
- Contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders, and
- Subrecipients follow their procedures for all local procurements as long as they meet Federal and State requirements. If there is no State law on a particular aspect of procurement, then Federal contract law principles will apply.
  - Subrecipients that are part of local government organizations may use the procurement procedures of their jurisdiction as long as they conform to the minimum standards prescribed by the FTA and MTA, which are summarized in this chapter.
  - Subrecipients that are private organizations must develop written procurement procedures that meet Federal and State requirements as outlined in FTA Circular 4220.1F.

Attachment 4.B provides a sample Small Procurement Policy and Procedure Template and Guide you may use that will satisfy most Federal and State Procurement requirements.

## **AWARDS TO RESPONSIBLE CONTRACTORS**

Subrecipients may make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.

The subrecipient must apply USDOT's debarment and suspension requirements to itself and each third-party contractor and their subcontractors. The subrecipient must seek concurrence from MTA before awarding any contract or procurement. MTA requires that the subrecipient check the Excluded Parties List System (EPLS) maintained by the GSA's System for Award Management (SAM) ([www.sam.gov](http://www.sam.gov)) before awarding a third party contract. A screen print of the EPLS search results must be placed in the procurement file. Any prospective contractor or subcontractor listed on the Maryland State government debarment and suspension list, which can be found online at <http://bpw.maryland.gov/Pages/debarments.aspx>, should also be regarded as non-responsible and ineligible for contract award.

## WRITTEN RECORD OF PROCUREMENT HISTORY

Subrecipients must maintain records detailing the history of each procurement. Such records are usually kept in the form of a file for three years from the procurement and, at a minimum, usually include:

For all procurements regardless of value:

- An independent cost estimate (ICE),
- Rationale for the method of procurement, solicitation document (e.g., the formal RFP, IFB, or other form of written solicitation),
- Documentation of outreach efforts (advertising of your procurement, to include posting on eMaryland Marketplace for all procurements exceeding \$15,000)
- Contractor responses/bids/proposals/quotes,
- Fair and equitable cost analysis of winning proposal (basis for contract price),
- Selection of contract type,
- Contractor selection or rejection,
- Screen shot of the EPLS search results from [www.sam.gov](http://www.sam.gov), and
- Copy of signed and executed final contract.

For each procurement valued more than \$25,000:

- Debarment certification
- DBE goal evaluation/analysis

## WRITTEN PROTEST PROCEDURES

Subrecipients must have written protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding protests to MTA and FTA. All protest decisions must be in writing. A protester must exhaust all administrative remedies with the subrecipient before pursuing a protest with FTA. Copies of all documentation related to protests should be on file (e.g., disclosure to FTA and MTA, written protest decisions, etc.), and a sample Protest Procedure is provided as Attachment 4.C.

## Responsibility for Settlement of Contract Issues/Disputes

Subrecipients are responsible for settling any contract issue or dispute arising from their procurements, following their own locally-adopted protest procedures. Subrecipients alone will be responsible in accordance with good administrative practice and sound business judgment for the settlement of all contractual and administrative issues arising

out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims.

FTA/MTA will not mediate contract disputes. FTA/MTA will only address technical procedural issues related to compliance with Federal and State requirements (per FTA Circular 4220.1F and COMAR Title 21). Violations of the law will be referred to the local, State, or Federal authority having proper jurisdiction. If the procedures followed did not comply with Federal and State requirements, FTA/MTA may withhold Federal/State funds until a fully-compliant procurement is conducted.

## INDEPENDENT COST ESTIMATE

A required first step in any procurement is to prepare an Independent Cost Estimate (ICE). An ICE is:

- necessary to determine the approximate cost of the project (which will determine what types of procurement methods may be used),
- an important step in developing a project's specifications, and
- needed to determine if the subrecipient has enough resources to conduct the project. MTA expects the subrecipient to prepare an ICE as a basis for each grant request.

ICE documentation must be maintained as part of the written record for each procurement. A sample template for documenting an ICE is provided as Attachment 4.D.

FTA's *Best Practices Procurement Manual* provides guidance on how to prepare and document an ICE, including a sample ICE form within Appendix B of that manual: <https://www.transit.dot.gov/funding/procurement/best-practices-procurement-manual>.

Information is also available through the National RTAP ProcurementPRO web application: <http://nationalrtap.org/Web-Apps/ProcurementPRO>.

## COST OR PRICE ANALYSIS FOR EVERY PROCUREMENT ACTION

Subrecipients must perform a cost or price analysis in connection with every procurement action, including contract modifications. Procurement actions specifically requiring a cost or price analysis include:



1. Independent Cost Estimate - An ICE must be prepared as an initial step in the process.
2. Evaluating Options - The value of options needs to be considered at the time the award is made.
3. Evaluating Offers - A fair and reasonable cost analysis must be conducted immediately prior to making the award.
4. Exercising Options - A fair and reasonable cost analysis must be conducted prior to exercising options.
5. Change Orders - A fair and reasonable cost analysis must be conducted prior to making any changes to the contract.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, subrecipients must make independent estimates (ICEs, referred to earlier) before receiving bids or proposals.

- A cost analysis must be performed when the offeror is required to submit the elements (such as labor hours, overhead, materials, etc.) of the estimated cost.
- A price analysis may be used in all other instances to determine the reasonableness of the proposed contract price.
- Subrecipients will negotiate profit as a separate element of the price for each contract. The cost plus a percentage of cost and percentage of construction cost methods of contracting is prohibited.

## **eMARYLAND MARKETPLACE**

Solicitations for all Section 5310-funded purchases exceeding \$15,000 must be published in the eMaryland Marketplace. MTA encourages subrecipients to list all solicitations on eMaryland Marketplace.

## **INTERGOVERNMENTAL PROCUREMENT AGREEMENTS**

Subrecipients are encouraged to utilize available State and local intergovernmental agreements for procurement or use of common goods and services. When obtaining goods or services in this manner, subrecipients must ensure all Federal requirements, required clauses, and certifications (including Buy America) are properly followed and included, whether in the master intergovernmental contract or in the subrecipient's purchase document.

Subrecipients are also encouraged to jointly procure goods and services with other subrecipients. When obtaining goods or services in this manner, subrecipients must ensure all Federal requirements, required clauses, and certifications are properly followed and included in the resulting joint solicitation and contract documents.

## SMALL PROCUREMENTS

For projects up to \$25,000 (State limit), while a formal request for bids or proposals is not required, the subrecipient must solicit price or rate quotations from an adequate number of sources. The State requires at least two and preferably three quotes.

The State categorizes Small Procurements as follows, each with its own procurement guidelines:

- **Category I (known as Micro-purchases under Federal methods):** For purchases under \$3,000, oral, written or published solicitation may be used. The subrecipient is responsible for ensuring that the price is fair and reasonable, and is encouraged to distribute multiple purchases equitably among local qualified suppliers. The basis for the award should be the judgment of the subrecipient's procurement officer. Once a subrecipient has identified a preferred vendor, MTA concurrence is required prior to the issuance of a purchase order.
- **Category II:** For procurements more than \$3,000 but not more than \$15,000, oral, written, or published solicitation may be made.
- **Category III:** For procurements more than \$15,000 but not more than \$25,000, written or published solicitation must be made, which may be supplemented by oral solicitation.

Selection of a vendor under Categories II and III should be based on the most favorable bid price or evaluated bid price, or most advantageous offer, as specified in the solicitation (COMAR 21.05.07.06).

As specified under COMAR 21.05.07.06, a written or published solicitation for a small procurement must contain, at a minimum:

1. description of the item requested;
2. time, date, place, and form of response requested;
3. basis for award; and

4. name and telephone number of the procurement officer to whom inquiries regarding the solicitation may be directed.<sup>1</sup>

A procurement may not be artificially divided in order to use the small procurement method instead of the other procurement methods. A checklist of required steps for small procurements and their record requirements (up to \$25,000) are provided as part of Attachment 4.B.

Projects exceeding the small purchase threshold (\$25,000) must be procured through one of the methods described in Appendix 4.A, with a checklist of steps required provided as well. Any subrecipient making a procurement greater than \$25,000 using Federal and/or State funding must contact MTA before initiating any procurement activity and must review Appendix 4.A.

## **THIRD-PARTY CONTRACT RESPONSIBILITIES REGARDING COMPLIANCE WITH FEDERAL AND STATE REQUIREMENTS**

Most Federal and State requirements regarding the use of FTA/MTA grant funds that apply to the primary subrecipient of the grant (your organization) also apply to your third-party contractors, vendors, and/or lessees. This includes such requirements as drug and alcohol testing for safety sensitive positions, possession of a valid Commercial Driver's License (CDL) by mechanics that test drive vehicles calling for CDLs, and meeting all ADA service requirements.

Federal and State requirements that pertain to those grants funding your contract with the third party should be clearly spelled out in the contract or your purchase order, and you are responsible for ensuring that your contractor complies with them. You must also monitor Federally-funded procurements of the private contractor's procurement process to ensure Federal requirements are met. Subcontractors must sign a series of certifications and assurances and forward them to the subrecipient.

Refer to Attachment 4.E for a list of Federally-required contract provisions when they apply, and to Attachment 4.F for a summary template of each FTA-required clause.

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<sup>1</sup> COMAR 21.05.07.06 also indicates that the solicitation must contain provisions concerning mercury content under COMAR 21.11.07 (<http://www.dsd.state.md.us/comar/comarhtml/21/21.11.07.07.htm>): "Procurement solicitations for products that may contain mercury shall give a price preference not exceeding 5 percent to bids or proposals for products that are mercury free or, if the procurement solicitation states, to products containing the least amount of mercury." This provision may not be pertinent for all procurements, but is required in the State code. Products in which mercury is likely to be a concern in transportation agencies include florescent light bulbs, batteries, disinfectant soaps, and certain electronics.

Third Party Procurement Clauses are found in the FTA Master Agreement updated each year by FTA. Always check the latest FTA Master Agreement and circulars to ensure you are including the current FTA-required provisions.

## SUMMARY

Under Chapter 4 of this manual, as a subrecipient of Federal and/or State funding, you will be required to provide the following information, forms or programs:

- Written Code of Ethics/Conduct. A sample Code of Ethics/Conduct Template is provided as Attachment 4.A.
- Written Procurement Policies and Procedures meeting FTA procurement requirements. A sample Procurement Policy and Procedures Template is provided as Attachment 4.B.
- Written Protest Procedure which can/should be part of your Procurement Program. A sample Protest Procedure Template is provided as Attachment 4.C.
- ICE Form with each procurement. A sample ICE Form Template is provided as Attachment 4.D.
- Documentation required for each procurement meeting FTA funding thresholds as detailed in the checklists found in Attachment 4.B.
- Appropriate FTA third-party Procurement Clauses and a checklist with each procurement meeting FTA funding limits. A checklist of current FTA-required provisions is provided as Attachment 4.E, with suggested clause language provided in Attachment 4.F.
- Procurement requirements described in this chapter are for COMAR Category I, II, and III small procurements (valued \$25,000 or less). Appendix 4.A covers the more extensive requirements for procurements valued more than \$25,000.

Place this sample Code of Ethics on your agency letterhead and have signed by the agency official authorized to sign your grant agreement. The Code of Ethics statements 1–3 highlighted are Federal requirements and must be in your final Code of Ethics.

## Code of Ethics

The (Name of Agency) Code of Ethics contains the following types of prohibitions:

1. **Personal Conflicts of Interest.** As provided in the Common Grant Rules and in the Federal Transit Administration (FTA) Master Agreement, no employee, officer, agent, or board member, or his or her immediate family member, partner, or organization that employs or is about to employ any of the foregoing individuals may participate in the selection, award, or administration of a contract supported with FTA assistance if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of those individuals previously listed has a financial or other interest in the firm selected for award.
2. **Gifts.** The sub-recipient's officers, employees, agents, or board members may neither solicit nor accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontracts. The sub-recipient may set minimum rules when the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.
3. **Violations.** To the extent permitted by State or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary action for violation of such standards by the sub-recipient's officers, employees, agents, board members, or by contractors, subcontractors, or sub-recipients or their agents. (Subrecipient is to list their disciplinary code for Ethic Code violations.)

The following statements are other common prohibitions your agency may want to use. You may have other statements/prohibitions you wish to use or already in place which should be reflected below.

4. An employee or official may not intentionally use the prestige of his or her office for personal gain or that of another.
5. An employee or official may not assist or represent any party for contingent compensation in any matter involving the agency other than in a judicial or quasi-judicial proceeding.
6. An employee or official whose duties include matters substantially relating to the subject matter of any contract with the Agency, may not be or become, while an Agency employee, an employee of the party contracting with the Agency.
7. A former employee or official may not assist or represent any one other than the Agency for compensation in a case, contract, or other specific matter involving the Agency if that matter is one in which he or she significantly participated as an official or employee.
8. An employees or official may not disclose or use for personal economic benefit, or that of another, confidential information acquired by reason of his or her public position.
9. Persons, entities, employees or officials that assist the Agency in procurement specifications may not be involved in bidding or assisting a bidder in that procurement or be employed by the bidder at the time of the bid.

## ATTACHMENT 4.A

10. Agency employees shall act honestly, truthfully and with integrity in all agency business transactions and dealings.
11. Agency employees shall be committed to treating our customers and co-workers fairly, equitably and with dignity and respect.

\_\_\_\_\_  
Name of Authorized Agency Official

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Please place this Procurement Policy on your agency letterhead and have it signed by your human service official authorized to sign your grant agreements. Note that these are minimum requirements necessary to meet Federal and State requirements. Each agency may (and should) include their own procurement rules and requirements.**

**Name of Agency**

**Procurement/Purchasing Policies and Procedures for Small Procurements  
(Valued up to \$25,000) Using Section 5310 Funding**

**Date**

**Procurement Procedures: (Applies to capital purchases paid for with 5310 grant funds as well as preventative maintenance and operating expenses.)**

The procurement officer is responsible for ensuring that prices are fair and reasonable by conducting an Independent Cost Estimate (ICE) as noted below for each purchase and supplying a Rationale for Procurement. The ICE form is the first document required to initiate the procurement process. (Copy of sample ICE form is attached).

The procurement officer is responsible for encouraging the distribution of purchases equitably among local vendors, and ensuring that no geographic preferences are shown in any procurement.

The procurement officer is responsible for conveying to vendors that the purchase will be made with federal and/or state funds and for including all applicable Federal and State clauses and conditions with the procurement.

The procurement officer is responsible for notifying vendors that by fulfilling the purchase request, the vendor will be required to accept and abide by all applicable Federal and State clauses and conditions (copy of Federal clauses and conditions attached).

## ATTACHMENT 4.B

The procurement officer is responsible for maintaining a full Procurement File of all 5310 procurements by Fiscal Year and procurement. Each Procurement File will be maintained (in written or electronic form) for the life of the capital asset or three years from date of agency acquisition of vendor operating goods or services.

The procurement officer is responsible for ensuring that their procurements do not discriminate against businesses owned by persons of racial or ethnic minorities or women.

The procurement officer is responsible for: getting written MTA concurrence for each and every Federal and State funded procurement over \$3,000 (operating) and over \$300 (capital) prior to award and purchase of any goods or services; and for getting written MTA concurrence for each and every Federal and State funded procurement over \$3,000 (operating) and \$300 (capital) prior to advertisement and award and purchase of any goods or services.

The procurement officer is responsible for conducting a fair and equitable cost/price analysis of the selected vendor's proposal/bid which includes defining and determining the responsible vendor.

The procurement officer is responsible for conducting a System for Award Management (SAM) search prior to award to verify vendors have not been excluded from entering into contracts funded with Federal and /or State funds.

The procurement officer is responsible for developing and maintaining a written protest procedure prior to initiating any procurement (copy attached).

The procurement officer is responsible for developing, securing approval, maintaining and enforcing an Agency Code of Ethics (copy attached) and for reviewing each procurement to ensure there is not a conflict of interest for/between agency staff and vendors.

The procurement officer is responsible for maintaining, in the Procurement File, a copy of any vendor invoice or bill, and the agency payment receipt, contract, agreement or Purchase Order entered into with the vendor as a result of an awarded procurement.

As part of this Procurement Procedure, the procurement officer will ensure the following (Name of Agency) documents are included and attached: Code of Ethics, Protest Procedure, ICE Form, and other agency procurement documents.

As part of this Procurement Procedure, the procurement officer will ensure that the following procurement requirements (based upon value of purchases) are met:



***Category I Micro purchases up to \$3,000:***

For purchases using operating grant funds of up to \$3,000, oral or written solicitation may be used. Contact your MTA representative prior to initiating your ICE Form. At least three quotes should be received, recorded, and reviewed prior to awarding vendor. Awards are made on judgment of procurement officer. All pertinent information, including copies of your vendor's SAM search, vendor's invoices and agency payment are required with request for payment to MTA.

***Category II Small Procurements between \$3,001 up to \$15,000:***

For purchases using operating grant funds of more than \$3,000 but not more than \$15,000, oral or written solicitation may be used. Contact your MTA representative prior to initiating your ICE Form. At least three written estimates should be received, recorded, and reviewed prior to awarding vendor. MTA concurrence must be received prior to award. All Federal clauses must be attached to the purchase order/contract document. Awards are made based on lowest cost. All pertinent information, including copies of your vendor's SAM search, vendor's invoices and agency payment are required with request for payment to MTA.

***Category III Small Procurements between \$15,001 up to \$25,000:***

For purchases of more than \$15,000, written solicitation must be used and posted on eMaryland Marketplace. Contact your MTA representative prior to initiating your ICE Form. MTA concurrence must be received prior to advertisement and award. At least three written estimates should be received, recorded, and reviewed prior to awarding vendor. All Federal clauses must be attached to the purchase order/contract document. Awards are made based on lowest cost. All pertinent information, including copies of your vendor's SAM search, vendor's invoices and agency payment are required with request for payment to MTA.

**Small Procurements Process:**

The following process is to be utilized for all Small Procurements under \$25,000 for operating purchases over \$3,000 or capital purchases over \$300 (this includes Capitalized Preventative Maintenance):

- Determine value of goods or services to be purchased and if capital or operating in nature. Develop an ICE Form for the purchase;
- Contact your Regional Planner and review the proposed procurement and ICE Form with them;

- Prepare and conduct appropriate solicitation documents and procurement file, include appropriate Federal Terms and conditions with solicitation documents;
- Prior to purchase or award, provide written Cost or Price analysis;
- Secure electronic (email) or written MTA approval to proceed with purchase or contract;
- Make purchase and/or award. Use Purchase Orders or other contract award documents as required below, include Federal Terms and Conditions with purchase documents to vendor;
- Receive goods or services and invoice. Check goods or services to ensure they meet purchase/contract specifications. Pay vendor;
- Submit payment request to MTA for reimbursement with appropriate invoices and payment verification attached.

### Written Contract Elements:

Procurements up to \$3,000 do not require a written contract; an oral contract may be used, though a receipt, invoice, or voucher is required documentation.

Procurements exceeding \$3,000 require a purchase order or written contract. The Federal and State requirements that pertain to those grants funding the contract with the third party should be clearly spelled out in the contract or your purchase order.

A list of Federally-required contract provisions and when they apply is **attached**. Also **attached** is a current copy of the required provisions. FTA-required clauses are detailed in the FTA Master Agreement that is updated by FTA each Federal Fiscal Year for FTA grants awarded that year.

As detailed in COMAR 21.05.07.06, F. Small Procurement Written Contract Content, State requirements for what must be included in any purchase order or other form of contract used for small procurements include:

1. Identification of the contract parties including contractor taxpayer identification number;
2. A statement of the scope of the contract;
3. The actual (if known) or estimated dollar value of the contract;
4. The term of the contract, including completion or delivery date;
5. Name of the procurement officer responsible for the contract; and
6. A clause containing the following: "The Contractor shall comply with the provisions of State Finance and Procurement Article, Title 19, Annotated Code of Maryland."

7. Other contract clauses as appropriate for the particular procurement. COMAR 21.05.07.06, F. Contract Clauses, provides preferred language for selected clauses. As noted above, FTA-required contract provisions must also be included.

With regards to the statement of the scope of the contract (item 2), FTA:

- requires a clear and accurate description of the technical requirements for the material, product, or service to be procured;
- prohibits specifications that unduly restrict competition or use exclusionary or discriminatory specifications.
- allows statements regarding minimum acceptable quality.
- prefers performance specifications, rather than detailed product specifications.
- allows “brand name or equal” descriptions when it otherwise be impractical or uneconomical to write a clear and accurate description.

### **Documentation Required for Each Procurement:**

Records for small procurements must be maintained until audited or for a period of 3 years after final payment, whichever occurs last. The following documentation is to be maintained for all contracts funded by FTA/MTA funds, regardless of value:

- an independent cost estimate (ICE),
- rationale for the method of procurement, solicitation document (e.g., the formal RFP, IFB, or other form of written solicitation),
- documentation of outreach efforts (advertising of your procurement, to include posting on eMaryland Marketplace for all procurements exceeding \$15,000)
- contractor responses/bids/proposals/quotes,
- fair and equitable cost analysis of winning proposal (basis for contract price),
- selection of contract type,
- contractor selection or rejection,
- screen shot of the EPLS search results from [www.sam.gov](http://www.sam.gov), and
- copy of signed and executed final contract.

In addition to the above list, the following documents specific to the category of procurement must be maintained as detailed in COMAR 21.05.07.06, I. Small Procurement Record.

#### ***Category I Micro purchases up to \$3,000:***

- For Contracts Resulting from Oral Solicitation:
  - Name and telephone number of person expending funds;
  - Date of contract award;

- Name and address of contractor;
- Receipt, invoice, repair order, packing slip, or voucher;
- Brief description of item procured.
- For Contracts Resulting from Written Solicitation:
  - Name and telephone number of responsible procurement officer;
  - Date of contract award;
  - Name and address of contractor;
  - Purchase order or contract;
  - Invoice and receiving documentation;
  - Brief description of item procured;
  - Copy of written or published solicitation, if used;
  - Copy of bid board or newspaper notice, if used.

***Category II & III Small Procurements between \$3,001 up to \$25,000:***

- Name and telephone number of responsible procurement officer;
- Date of contract award;
- Name and address of contractor;
- Purchase order or contract;
- Invoice and receiving documentation;
- Description of item procured;
- Bid or offer documentation including names of all vendors directly solicited, copies of any written bids or offers received, bid or offer amounts, statement signed by the procurement officer detailing basis of award, identification of minority business enterprises and small businesses directly solicited, and, when only one bid or offer is received in response to a solicitation, an explanation for the lack of a greater response;
- Copy of written solicitation;
- Copy of eMaryland Marketplace notice, and copy of bid board or newspaper notice, if used;
- Brief written justification if the procurement was sole source;
- Copy of certification by the appropriate fiscal authority of fund availability to satisfy the contractual requirement.

**Designated Procurement Officer:**

The designated procurement officer is: \_\_\_\_\_

For the time period: \_\_\_\_\_

Authorized by: \_\_\_\_\_ Date: \_\_\_\_\_

Please use this template if you need a Procurement Protest and Appeal Procedure. Place this procedure on your agency letterhead and have it signed and dated by the agency official authorized to sign your grant agreements. This Protest and Appeal Procedure must be completed and on file before a solicitation or procurement can be released for advertisement. Wherever AGENCY or other names are underlined below, the subrecipient is to insert the name of their agency, office, officer, or time period.

## PROTEST AND APPEAL PROCEDURE

### PROTEST PROCEDURE

All protests relating to Federally or State funded procurement solicitations, selections, and/or awards made by the Name of Agency Procurement Office on behalf of Name of Agency Transportation Office must be filed in writing with the Name of Agency procurement officer within (designate number of days to file a protest) calendar days of the notice of solicitation, notice of selection and/or notice of award.

The date of notification shall be the post-marked (hard copy mail) or electronic website (email) date posted to the Name of Agency Procurement Office. Oral Protests will not be considered.

Protests will only be considered valid if the protester is an "interested party". An "interested party" is a party that is an actual or prospective vendor making or offering a price quote or bid. The protest reviewing authority or designee(s) shall be the Procurement Officer of The Agency, designated prior to the release of any solicitation or procurement and whom shall review the protest with a thorough evaluation of the issues raised and respond to the protester within (Designate number of days to review) calendar days of the receipt of such protest.

A certified letter shall be sent to the protester from either the Executive Director of the Name of Agency or the attorney for the Name of Agency stating a concurrence or denial of the protest with supporting explanations. The certified letter to the protester shall constitute the final decision of the Name of Agency.

### APPEAL PROCEDURE

Any procurement award decision may be appealed by submitting an appeal letter to the Name of Agency's Board within (Designate desired number of days to file an appeal) calendar days after protester's notification of the AGENCY's award decision. Appeals will:

1. Be in writing, dated and signed.
2. State the reason for disputing the award.

3. Include the desired remedy.
4. Be acknowledged in writing by the Name of Agency's Board.

An Appeals Committee will hear appeals within (Designate number of days to hear appeal) calendar days after the Name of Name of Agency's Board's receipt of the appeal letter. The Appeals Committee will include three or more persons appointed by the Chair of the Board. No person may hear an appeal if they have a conflict of interest which may affect their judgment.

The Appeals Committee will issue a written decision within (Designate number of days to provide written decision) calendar days after hearing the appeal and subsequent closure of the record. Appeal hearings will be informal and open. A decision of the Appeals Committee will be binding and final.

The Maryland Transit Administration (MTA) and/or the Federal Transit Administration (FTA) will not mediate procurement disputes nor hear or review a protest or appeal unless it involves a technical procedural issue related to compliance with Federal and/or State procurement requirements.

Name of Authorizing Official:

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**You may use this form as a template for your agency's Independent Cost Estimate. Place this form on your agency letterhead and incorporate into your Procurement Procedures.**

**NAME OF AGENCY**

## **INDEPENDENT COST ESTIMATE (ICE) FORM**

**Agency Name:**

**Project Name and Grant Number:**

**Date:**

**Project Description (must include type of good or service, number of units, preliminary specifications or dimensions, product longevity, warranty and/or product service requirements and number of purchase options expected to be exercised):**

**Date(s) and number of Estimates (cite each estimate source):**

**Estimate (cite expected unit price and extended price, including all services and required components):**

**Method of Obtaining Estimate (check appropriate section):**

- ☐ Obtained direct estimate from vendor(s):
- ☐ Published List Price:
- ☐ Past Agency Pricing (date and contract):
- ☐ Engineering or Technical Estimate:
- ☐ Independent Third Party Estimate:
- ☐ Other (specify):

**Additional Comments:**

**Rationale for Type of Procurement (explain why the type of procurement and cost estimate was selected):**

**Prepared By:**

**Date Prepared:**

**Phone:**

**Email:**





## Checklist of FTA Provisions

### Applicability of Third Party Contract Provisions

(excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

*Excerpted from FTA Circular 4220.1F*

TYPE OF PROCUREMENT					
PROVISION	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase	Construction	Materials & Supplies
No Federal Government Obligations to Third Parties (by Use of a Disclaimer)	All	All	All	All	All
False Statements or Claims, Civil and Criminal Fraud	All	All	All	All	All
Access to Third Party Contract Records	All	All	All	All	All
Changes to Federal Requirements	All	All	All	All	All
Termination	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.
Civil Rights (Title VI, ADA, EEO except Special DOL EEO clause for construction projects)	All	All	All	All	All
Special DOL EEO clause for construction projects				>\$10,000	
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
Incorporation of FTA Terms	All	All	All	All	All
Debarment and Suspension	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$150,000	>\$150,000	>\$150,000
Resolution of Disputes, Breaches, or Other Litigation	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Air	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Water	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Cargo Preference			Transport by ocean vessel.	Transport by ocean vessel.	Transport by ocean vessel.
Fly America	Foreign air transp. /travel.	Foreign air transp. /travel.	Foreign air transp. /travel.	Foreign air transp. /travel.	Foreign air transp. /travel.

**Checklist of FTA Provisions (Continued)**  
**Applicability of Third Party Contract Provisions**

TYPE OF PROCUREMENT					
PROVISION	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase	Construction	Materials & Supplies
Davis-Bacon Act				>\$2,000 (also ferries).	
Contract Work Hours and Safety Standards Act		>\$100,000 (transportation services excepted).	>\$100,000	>\$100,000 (also ferries).	
Copeland Anti-Kickback Act Section 1 Section 2				All > \$2,000 (also ferries).	
Bonding				\$100,000	
Seismic Safety	A&E for new buildings & additions.			New buildings & additions.	
Transit Employee Protective Arrangements		Transit operations.			
Charter Service Operations		All			
School Bus Operations		All			
Drug Use and Testing		Transit operations.			
Alcohol Misuse and Testing		Transit operations.			
Patent Rights	R & D				
Rights in Data and Copyrights	R & D				
Energy Conservation	All	All	All	All	All
Recycled Products		EPA-selected items \$10,000 or more annually.		EPA-selected items \$10,000 or more annually.	EPA-selected items \$10,000 or more annually.
Conformance with ITS National Architecture	ITS projects.	ITS projects.	ITS projects.	ITS projects.	ITS projects.
ADA Access	A&E	All	All	All	All
Notification of Federal Participation for States	Limited to States.	Limited to States.	Limited to States.	Limited to States.	Limited to States.

This document provides sample language for FTA-required third-party contract clauses and provisions, based on the most currently available FTA guidance, including:

- Appendix A.1 of the *Best Practices Procurement Manual*
- FTA Circular 4220.1F (as revised March 2013)
- FTA Certifications and Assurances for FY 2016
- FTA Master Agreement dated Oct. 1, 2015

Section 5310 subrecipients should consult with Attachment 4.E to determine which FTA clauses are applicable to their procurement and ensure that all required clauses, certifications and provisions are included in their procurement documents, including the solicitation and the executed contract or purchase order.

Subrecipients are also advised to consult the most recent available FTA guidance documents as well as their own grant agreement with the MTA to ensure that the most up-to-date FTA requirements are referenced.

## Federally-Required and Other Model Contract Clauses

*As excerpted from Appendix A of the FTA Best Practices Procurement Manual (2013 edition) and updated for FTA Circular 4220.1F, the FAST Act, and the FTA Master Agreement for FY 2016*

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**1. FLY AMERICA REQUIREMENTS**

**49 U.S.C. § 40118  
41 CFR Part 301-10**

**Model Clause/Language**

The relevant statutes and regulations do not mandate any specified clause or language. FTA proposes the following language.

**Fly America Requirements** - The Contractor agrees to comply with 49 U.S.C. 40118 (the “Fly America” Act) in accordance with the General Services Administration’s regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

**2. BUY AMERICA REQUIREMENTS**

**49 U.S.C. 5323(j)  
49 CFR Part 661**

**Mandatory Clause/Language**

The Buy America regulation, at 49 CFR 661.13, requires notification of the Buy America requirements in FTA-funded contracts, but does not specify the language to be used. The following language has been developed by FTA.

**Buy America** - The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have the following percentage of domestic content: 60 percent for funding under Federal Fiscal Year 2016 and FY2017; 65 percent for FY2018 and FY2019; 70 percent for FY2020 and beyond.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

**Certification requirement for procurement of steel, iron, or manufactured products.**

*Certificate of Compliance with 49 U.S.C. 5323(j)(1)*

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 C.F.R. Part 661.5.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

*Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) and 49 C.F.R. 661.5, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

**Certification requirement for procurement of buses, other rolling stock and associated equipment.**

*Certificate of Compliance with 49 U.S.C. 5323(j)(2)(C).*

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and the regulations at 49 C.F.R. Part 661.11.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

*Certificate of Non-Compliance with 49 U.S.C. 5323(j)(2)(C)*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11, but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 CFR 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

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**3. CHARTER BUS REQUIREMENTS**

**49 U.S.C. 5323(d)**

**49 CFR Part 604**

**Model Clause/Language**

The relevant statutes and regulations do not mandate any specific clause or language. The following clause has been developed by FTA.

**Charter Service Operations** - The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604 Subpart B. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of public transit or transportation services for seniors and individuals with disabilities. Any violation of Charter Service regulations under this contract may be subject to FTA-imposed corrective measures and remedies that may include being barred from future participation in FTA-funded projects.

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**3. SCHOOL BUS REQUIREMENTS**

**49 U.S.C. 5323(f)**

**49 CFR Part 605**

**Model Clause/Language**

The relevant statutes and regulations do not mandate any specific clause or language. The following clause has been developed by FTA.

**School Bus Operations** - Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the

transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

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#### **4. CARGO PREFERENCE REQUIREMENTS**

**46 U.S.C. 1241**

**46 CFR Part 381**

##### **Model Clause/Language**

The MARAD regulations at 46 CFR 381.7 contain suggested contract clauses. The following language is proffered by FTA.

**Cargo Preference - Use of United States-Flag Vessels** - The contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.) c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

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**5. SEISMIC SAFETY REQUIREMENTS**

42 U.S.C. 7701 et seq. 49

CFR Part 41

**Model Clauses/Language**

The regulations do not provide suggested language for third-party contract clauses. The following language has been developed by FTA.

**Seismic Safety** - The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

**6. ENERGY CONSERVATION REQUIREMENTS**

42 U.S.C. 6321 et seq.

**Model Clause/Language**

No specific clause is recommended in the regulations because the Energy Conservation requirements are so dependent on the state energy conservation plan. The following language has been developed by FTA:

**Energy Conservation** - The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. part 622, subpart C.

**7. CLEAN WATER REQUIREMENTS**

33 U.S.C. 1251

**Model Clause/Language**

While no mandatory clause is contained in the Federal Water Pollution Control Act, as amended, the following language developed by FTA contains all the mandatory requirements:

**Clean Water** - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Water Act, as amended, 33 U.S.C. §§ 1251 – 1377. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the

Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

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**8. BUS TESTING**  
**49 U.S.C. 5318(e)**  
**49 CFR Part 665**

**Model Clause/Language**

Clause and language therein are merely suggested. 49 CFR Part 665 does not contain specific language to be included in third party contracts but does contain requirements applicable to subrecipients and third party contractors. Bus Testing Certification and language therein are merely suggested.

**Bus Testing** - The Contractor [Manufacturer] agrees to comply with 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 CFR Part 665 and shall perform the following:

- 1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient at a point in the procurement process specified by the recipient which will be prior to the recipient's final acceptance of the first vehicle.
- 2) A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public.
- 3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to recipient's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
- 4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

**CERTIFICATION OF COMPLIANCE WITH FTA'S BUS TESTING REQUIREMENTS**

The undersigned [Contractor/Manufacturer] certifies that the vehicle offered in this procurement complies with 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 CFR Part 665.

The undersigned understands that misrepresenting the testing status of a vehicle acquired with Federal financial assistance may subject the undersigned to civil penalties as outlined in the Department of Transportation's regulation on Program Fraud Civil Remedies, 49 CFR Part 31. In addition, the undersigned understands that FTA may suspend or debar a manufacturer under the procedures in 2 CFR Part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. Part 1200.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Company Name: \_\_\_\_\_

Title: \_\_\_\_\_

## **9. PRE-AWARD AND POST DELIVERY AUDITS REQUIREMENTS**

**49 U.S.C. 5323  
49 CFR Part 663**

### **Model Clause/Language**

Clause and language therein are merely suggested. 49 C.F.R. Part 663 does not contain specific language to be included in third party contracts but does contain requirements applicable to subrecipients and third party contractors.

- Buy America certification is mandated under FTA regulation, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. 663.13.

-- Specific language for the Buy America certification is mandated by FTA regulation, "Buy America Requirements--Surface Transportation Assistance Act of 1982, as amended," 49 C.F.R. 661.13, but has been modified to include FTA's Buy America requirements codified at 49 U.S.C. § 5323(j).

**Pre-Award and Post-Delivery Audit Requirements** - The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following certifications:

(1) Buy America Requirements: The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

(2) Solicitation Specification Requirements: The Contractor shall submit evidence that it will be

capable of meeting the bid specifications.

(3) Federal Motor Vehicle Safety Standards (FMVSS): The Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

**BUY AMERICA CERTIFICATE OF COMPLIANCE WITH FTA REQUIREMENTS  
FOR BUSES, OTHER ROLLING STOCK, OR ASSOCIATED EQUIPMENT**

*(To be submitted with a bid or offer exceeding the small purchase threshold for Federal assistance programs, currently set at \$150,000.)*

Certificate of Compliance

The bidder hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C), Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, and the regulations of 49 C.F.R. 661.11:

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Company Name: \_\_\_\_\_

Title: \_\_\_\_\_

Certificate of Non-Compliance

The bidder hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C) and Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirements consistent with 49 U.S.C. Sections 5323(j)(2)(B) or (j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended, and regulations in 49 C.F.R. 661.7.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Company Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

**10. LOBBYING**  
**31 U.S.C. 1352**  
**2 CFR Part 200, Appendix II**  
**49 CFR Part 20**

**Mandatory Clause/Language**

Clause and specific language therein are mandated by 2 CFR Part 200, Appendix II.

Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*]

- Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

- Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.

Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.

- Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

**Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)**—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

**APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING**

**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

*(To be submitted with each bid or offer exceeding \$100,000)*

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of

an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. §3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date

**11. ACCESS TO RECORDS AND REPORTS****49 U.S.C. 5325****2 CFR 200, §200.326 & §200.336****49 CFR 633.15****Model Clause/Language**

The specified language is not mandated by the statutes or regulations referenced, but the language provided paraphrases the statutory or regulatory language.

**Access to Records** - The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 2 CFR 200, §200.336, the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.15 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(3), which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.15, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(3), which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$150,000.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 2 CFR §200.326, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(3)) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 2 CFR §200.333.
7. FTA does not require the inclusion of these requirements in subcontracts.

#### Requirements for Access to Records and Reports by Types of Contract

Contract Characteristics	Operational Service Contract	Turnkey	Construction	Architectural Engineering	Acquisition of Rolling Stock	Professional Services
<u>I State Grantees</u>						
a. Contracts below SAT (\$150,000)	None	Those imposed on state pass thru to Contractor	None	None	None	None
b. Contracts above \$150,000/Capital Projects	None unless <sup>1</sup> non-competitive award		Yes, if non-competitive award or if funded thru <sup>2</sup> 5307/5309/5311	None unless non-competitive award	None unless non-competitive award	None unless non-competitive award
<u>II Non State Grantees</u>						
a. Contracts below SAT (\$150,000)	Yes <sup>3</sup>	Those imposed on non-state Grantee pass thru to Contractor	Yes	Yes	Yes	Yes
b. Contracts above \$150,000/Capital Projects	Yes <sup>3</sup>		Yes	Yes	Yes	Yes

Sources of Authority:

<sup>1</sup> 49 USC 5325 (a)

<sup>2</sup> 49 CFR 633.15

<sup>3</sup> 2 CFR §200.326



## **12. FEDERAL CHANGES** **2 CFR Part 200**

### **Model Clause/Language**

No specific language is mandated. The following language has been developed by FTA.

**Federal Changes** - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

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## **13. BONDING REQUIREMENTS**

### **Model Clauses/Language**

FTA does not prescribe specific wording to be included in third party contracts. FTA has prepared sample clauses as follows:

#### **Bid Bond Requirements (Construction)**

##### **(a) Bid Security**

A Bid Bond must be issued by a fully qualified surety company acceptable to (Recipient) and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.

##### **(b) Rights Reserved**

In submitting this Bid, it is understood and agreed by bidder that the right is reserved by (Recipient) to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of (Recipient).

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of (Recipient), shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of (Recipient's) damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor.

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by (Recipient) as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense (Recipient) for the damages occasioned by default, then the undersigned bidder agrees to indemnify (Recipient) and pay over to (Recipient) the difference between the bid security and (Recipient's) total damages, so as to make (Recipient) whole.

The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive.

#### **Performance and Payment Bonding Requirements (Construction)**

The Contractor shall be required to obtain performance and payment bonds as follows:

##### **(a) Performance bonds**

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).
2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

##### **(b) Payment bonds**

1. The penal amount of the payment bonds shall equal:
  - (i) Fifty percent of the contract price if the contract price is not more than \$1 million.
  - (ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
  - (iii) Two and one half million if the contract price is more than \$5 million.
2. If the original contract price is \$5 million or less, the (Recipient) may require additional protection as required by subparagraph 1 if the contract price is increased.

#### **Performance and Payment Bonding Requirements (Non-Construction)**

The Contractor may be required to obtain performance and payment bonds when necessary to protect the (Recipient's) interest.

(a) The following situations may warrant a performance bond:

1. (Recipient) property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).
2. A contractor sells assets to or merges with another concern, and the (Recipient), after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.
3. Substantial progress payments are made before delivery of end items starts.
4. Contracts are for dismantling, demolition, or removal of improvements.

(b) When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).
2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) A payment bond is required only when a performance bond is required, and if the use of payment bond is in the (Recipient's) interest.

(d) When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:

1. The penal amount of payment bonds shall equal:
  - (i) Fifty percent of the contract price if the contract price is not more than \$1 million;
  - (ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
  - (iii) Two and one half million if the contract price is increased.

#### **Advance Payment Bonding Requirements**

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The (recipient) shall determine the amount of the advance payment bond necessary to protect the (Recipient).

**Patent Infringement Bonding Requirements (Patent Indemnity)**

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. The (recipient) shall determine the amount of the patent indemnity to protect the (Recipient).

**Warranty of the Work and Maintenance Bonds**

1. The Contractor warrants to (Recipient), the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by (Recipient), free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the [Project Manager], the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
2. The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by (Recipient) and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to (Recipient). As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment [as provided in Item X below], furnish separate Maintenance (or Guarantee) Bonds in form acceptable to (Recipient) written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

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**14. CLEAN AIR**  
**42 U.S.C. 7401 et seq**  
**40 CFR 15.61**  
**2 CFR 200**

**Model Clauses/Language**

No specific language is required. FTA has proposed the following language.

**Clean Air** - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

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### **15. RECYCLED PRODUCTS**

**42 U.S.C. 6962**

**40 CFR Part 247**

**Executive Order 12873**

#### **Model Clause/Language**

No specific clause is mandated, but FTA has developed the following language.

**Recovered Materials** - The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

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### **16. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS**

**49 U.S.C. § 5333(a)**

**40 U.S.C. §§ 3141 – 3147**

**18 U.S.C. § 874**

**29 C.F.R. part 3**

#### **Clause Language**

##### **Davis-Bacon and Copeland Anti-Kickback Acts**

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination

for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The



Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) **Withholding** - The [ *insert name of grantee* ] shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the [ *insert name of grantee* ] may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the [ *insert name of grantee* ] for transmission to the Federal



Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) **Apprentices and trainees** - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S.

Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of

work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

**(5) Compliance with Copeland Act requirements** - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

**(6) Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**(7) Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**(8) Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

**(9) Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**(10) Certification of eligibility** - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

## **17. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

### **Background and Application**

The Contract Work Hours and Safety Standards Act is codified at 40 USC 3701, *et seq.* The Act applies to grantee contracts and subcontracts “financed at least in part by loans or grants from ... the [Federal] Government.” 40 USC 3701(b)(1)(B)(iii) and (b)(2), 29 CFR 5.2(h), 2 CFR §200.326. Although the original Act required its application in any construction contract over \$2,000 or non-construction contract to which the Act applied over \$2,500 (and language to that effect was still found in the former 49 CFR 18.36(i)(6) but was removed in 2 CFR 200 Appendix II (E)), the Act no longer applies to any “contract in an amount that is not greater than \$100,000.” 40 USC 3701(b)(3) (A)(iii).

The Act applies to construction contracts and, in very limited circumstances, non-construction projects that employ “laborers or mechanics on a public work.” These non-construction applications do not generally apply to transit procurements because transit procurements (to include rail cars and buses) are deemed “commercial items.” 40 USC 3707, 41 USC 403 (12). A grantee that contemplates entering into a contract to procure a developmental or unique item should consult counsel to determine if the Act applies to that procurement and that additional language required by 29 CFR 5.5(c) must be added to the basic clause below.

The clause language is drawn directly from 29 CFR 5.5(b) and any deviation from the model clause below should be coordinated with counsel to ensure the Act’s requirements are satisfied.

### **Clause Language**

#### **Contract Work Hours and Safety Standards**

**(1) Overtime requirements** - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

**(3) Withholding for unpaid wages and liquidated damages** - The (*write in the name of the grantee*) shall upon its own action or upon written request of an authorized representative of the

Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

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**18. [ RESERVED ]**

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**19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

**Model Clause/Language**

While no specific language is required, FTA has developed the following language.

**No Obligation by the Federal Government.**

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

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**20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS  
AND RELATED ACTS**

**31 U.S.C. 3801 et seq.  
49 CFR Part 31 18 U.S.C. 1001  
49 U.S.C. 5307**

**Model Clause/Language**

These requirements have no specified language, so FTA proffers the following language.

**Program Fraud and False or Fraudulent Statements or Related Acts.**

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, 5310, 5311, or 5339, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

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**21. TERMINATION**

**2 CFR 200  
FTA Circular 4220.1F**

**a. Termination for Convenience (General Provision)** The (Recipient) may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to (Recipient) to be paid the Contractor. If the Contractor has any



property in its possession belonging to the (Recipient), the Contractor will account for the same, and dispose of it in the manner the (Recipient) directs.

**b. Termination for Default [Breach or Cause] (General Provision)** If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the (Recipient) may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the (Recipient) that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the (Recipient), after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

**c. Opportunity to Cure (General Provision)** The (Recipient) in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to (Recipient)'s satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from (Recipient) setting forth the nature of said breach or default, (Recipient) shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude (Recipient) from also pursuing all available remedies against Contractor and its sureties for said breach or default.

**d. Waiver of Remedies for any Breach** In the event that (Recipient) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by (Recipient) shall not limit (Recipient)'s remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

**e. Termination for Convenience (Professional or Transit Service Contracts)** The (Recipient), by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

**f. Termination for Default (Supplies and Service)** If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

**g. Termination for Default (Transportation Services)** If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the (Recipient), protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and (Recipient) shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the (Recipient).

**h. Termination for Default (Construction)** If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The contractor, within [10] days from the beginning of any delay, notifies the (Recipient) in writing of the causes of delay. If in the judgment of the (Recipient), the delay is excusable, the time for completing the work shall be extended. The judgment of the (Recipient) shall be final



and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient.

**i. Termination for Convenience or Default (Architect and Engineering)** The (Recipient) may terminate this contract in whole or in part, for the Recipient's convenience or because of the failure of the Contractor to fulfill the contract obligations. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the Recipient, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Recipient may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Recipient.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

**j. Termination for Convenience or Default (Cost-Type Contracts)** The (Recipient) may terminate this contract, or any portion of it, by serving a notice of termination on the Contractor. The notice shall state whether the termination is for convenience of the (Recipient) or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the (Recipient), or property supplied to the Contractor by the (Recipient). If the termination is for default, the (Recipient) may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the (Recipient) and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the (Recipient), the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the (Recipient) determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the (Recipient), after setting up a new work

schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

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## 22. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

### **Clause Language**

The following clause language is suggested, not mandatory. It incorporates the optional method of verifying that contractors are not excluded or disqualified by certification.

### **Suspension and Debarment**

This contract is a covered transaction for purposes of 2 CFR Part 180, Subpart C, as adopted and supplemented by U.S. DOT regulations at 2 CFR Part 1200. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 2 CFR 180.995, or affiliates, as defined at 2 CFR 180.905, are excluded or disqualified as defined at 2 CFR 180.940 and 2 CFR 180.945.

The contractor is required to comply with 2 CFR Part 180, Subpart C, as adopted and supplemented by U.S. DOT regulations at 2 CFR Part 1200, will review the SAM at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and must include the requirement to comply with 2 CFR Part 180, Subpart C, as adopted and supplemented by U.S. DOT regulations at 2 CFR Part 1200 in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by **{insert agency name}**. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to **{insert agency name}**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 CFR Part 180, Subpart C, as adopted and supplemented by U.S. DOT regulations at 2 CFR Part 1200 while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

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## **23. PRIVACY ACT** **5 U.S.C. 552**

### **Model Clause/Language**

The text of the following clause has not been mandated by statute or specific regulation, but has been developed by FTA.

**Contracts Involving Federal Privacy Act Requirements** - The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,

5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

## **24. CIVIL RIGHTS REQUIREMENTS**

**29 U.S.C. § 623, 42 U.S.C. § 2000  
42 U.S.C. § 6102, 42 U.S.C. § 12112  
42 U.S.C. § 12132, 49 U.S.C. § 5332  
29 CFR Part 1630, 41 CFR Parts 60 et seq.**

### **Model Clause/Language**

The following clause was predicated on language contained at the former 49 CFR Part 19, Appendix A (which was superseded by 2 CFR Part 200), but FTA has shortened the lengthy text.

**Civil Rights** - The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against

any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of individuals with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

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**25. BREACHES AND DISPUTE RESOLUTION****49 CFR Part 18****FTA Circular 4220.1F****Model Clauses/Language**

FTA does not prescribe the form or content of such provisions. What provisions are developed will depend on the circumstances and the type of contract. Recipients should consult legal counsel in developing appropriate clauses. The following clauses are examples of provisions from various FTA third party contracts.

**Disputes** - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of (Recipient)'s [title of employee]. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide by the decision.

**Performance During Dispute** - Unless otherwise directed by (Recipient), Contractor shall continue performance under this Contract while matters in dispute are being resolved.

**Claims for Damages** - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

**Remedies** - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the (Recipient) and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the (Recipient) is located.

**Rights and Remedies** - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the (Recipient), (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

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**26. PATENT AND RIGHTS IN DATA****37 CFR Part 401****2 CFR §200.315****Model Clause/Language**

The FTA patent clause is substantially similar to the text of former 49 C.F.R. Part 19, Appendix A, Section 5, but the rights in data clause reflects FTA objectives. For patent rights, FTA is governed by Federal law and regulation. For data rights, the text on copyrights is insufficient to meet FTA's purposes for awarding research grants. This model clause, with larger rights as a standard, is proposed with the understanding that this standard could be modified to FTA's needs.

**CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.**

**A. Rights in Data** - The following requirements apply to each contract involving experimental, developmental or research work:

(1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 2 CFR §200.315, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and
2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.

(c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c) , however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.

(g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state



instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in

U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

**B. Patent Rights** - The following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

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## **27. TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS**

**49 U.S.C. § 5310, § 5311, and § 5333**

**29 CFR Part 215**

### **Model Clause/Language**

Since no mandatory language is specified, FTA had developed the following language:

**Transit Employee Protective Provisions.** (1) The Contractor agrees to the comply with applicable transit employee protective requirements as follows:



(a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for enhanced mobility of seniors and individuals with disabilities authorized by 49 U.S.C. § 5310(b)(1), or for projects for rural areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(b)(1) for Enhanced Mobility of Seniors and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(b)(1), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

(c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Rural Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Non-urbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

(2) The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

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**28. DISADVANTAGED BUSINESS ENTERPRISE (DBE)**  
**49 CFR Part 26**

**Model/Clause Language**

The following clause language includes language mandated under 49 CFR 26.13(b) as well as additional suggested language. It incorporates the payment terms and conditions applicable to all subcontractors based in Part 26 as well as those related only to DBE subcontractors. The suggested language allows for the options available to grantees concerning retainage, specific contract goals, and evaluation of DBE subcontracting participation when specific contract goals have been established.

**Disadvantaged Business Enterprises**

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is \_\_ %. A separate contract goal [of \_\_ % DBE participation has] [has not] been established for this procurement.

**Required Language (49 CFR §26.13(b)):**

b. The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as {insert Agency Name} deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).

c. *{If a separate contract goal has been established, use the following}* Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following [concurrent with and accompanying sealed bid] [concurrent with and accompanying an initial proposal] [prior to award]:

1. The names and addresses of DBE firms that will participate in this contract;
2. A description of the work each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;

4. Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
5. Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts to do so.

**[Bidders][Offerors]** must present the information required above **[as a matter of responsiveness] [with initial proposals] [prior to contract award]** (*see* 49 CFR 26.53(3)).

***{If no separate contract goal has been established, use the following}*** The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

- d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the **{insert agency name}**. In addition, **[the contractor may not hold retainage from its subcontractors.] [is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.] [is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the {insert agency name} and contractor's receipt of the partial retainage payment related to the subcontractor's work.]**
- e. The contractor must promptly notify **{insert agency name}**, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of **{insert agency name}**.

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## **29. [RESERVED]**

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## **30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS** FTA Circular 4220.1F

### **Model Clause/Language**

FTA has developed the following incorporation of terms language:

**Incorporation of Federal Transit Administration (FTA) Terms** - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not

expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

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### **31. ALCOHOL AND CONTROLLED SUBSTANCES TESTING**

**49 U.S.C. §5331**

**49 CFR Part 655**

**Note: FTA's Alcohol & Controlled Substances Testing requirements do NOT apply to the Section 5310 program. This clause is ONLY required if the Section 5310 subrecipient ALSO receives funding under FTA Section 5307, 5309, 5311, and/or 5339.**

#### **Model Clause/Language**

##### **Introduction**

FTA's drug and alcohol rules, 49 CFR 655, are unique among the regulations issued by FTA. First, they require recipients to ensure that any entity performing a safety-sensitive function on the recipient's behalf (usually subrecipients and/or contractors) implement a complex drug and alcohol testing program that complies with Part 655. Second, the rules condition the receipt of certain kinds of FTA funding on the recipient's compliance with the rules; thus, the recipient is not in compliance with the rules unless every entity that performs a safety-sensitive function on the recipient's behalf is in compliance with the rules. Third, the rules do not specify how a recipient ensures that its subrecipients and/or contractors comply with them.

How a recipient does so depends on several factors, including whether the contractor is covered independently by the drug and alcohol rules of another Department of Transportation operating administration, the nature of the relationship that the recipient has with the contractor, and the financial resources available to the recipient to oversee the contractor's drug and alcohol testing program. In short, there are a variety of ways a recipient can ensure that its subrecipients and contractors comply with the rules.

Therefore, FTA has developed three model contract provisions for recipients to use "as is" or to modify to fit their particular situations.

##### **Explanation of Model Contract Clauses**

Under Option 1, the recipient ensures the contractor's compliance with the rules by requiring the contractor to participate in a drug and alcohol program administered by the recipient. The advantages of doing this are obvious: the recipient maintains total control over its compliance with 49 CFR 655. The disadvantage is that the recipient, which may not directly employ any safety-sensitive employees, has to implement a complex testing program. Therefore, this may be a practical option only for those recipients which have a testing program for their employees, and can add the contractor's safety-sensitive employees to that program.

Under Option 2, the recipient relies on the contractor to implement a drug and alcohol testing program that complies with 49 CFR 655, but retains the ability to monitor the contractor's testing program; thus, the recipient has less control over its compliance with the drug and alcohol testing rules than it does under option 1. The advantage of this approach is that it places the responsibility for complying with the rules on the entity that is actually performing the safety-sensitive function. Moreover, it reserves to the recipient the power to ensure that the contractor complies with the program. The disadvantage of Option 2 is that without adequate monitoring of the contractor's program, the recipient may find itself out of compliance with the rules.

Under option 3, the recipient specifies some or all of the specific features of a contractor's drug and alcohol compliance program. Thus, it requires the recipient to decide what it wants to do and how it wants to do it. The advantage of this option is that the recipient has more control over the contractor's drug and alcohol testing program, yet it is not actually administering the testing program. The disadvantage is that the recipient has to specify and understand clearly what it wants to do and why.

### **Drug and Alcohol Testing Option 1**

The contractor agrees to:

*(a) participate in (grantee's or recipient's) drug and alcohol program established in compliance with 49 CFR 655.*

### **Drug and Alcohol Testing Option 2**

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Part 655, produce any documentation necessary to establish its compliance with Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of (name of State), or the (insert name of grantee), to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 655 and review the testing process. The contractor agrees further to certify annually its compliance with Part 655 before (insert date) and to submit the Management Information System (MIS) reports before (insert date before March 15) to (insert title and address of person responsible for receiving information). To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

### **Drug and Alcohol Testing Option 3**

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Part 655, produce any documentation necessary to establish its

compliance with Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of (name of State), or the (insert name of grantee), to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 655 and review the testing process. The contractor agrees further to certify annually its compliance with Part 655 before (insert date) and to submit the Management Information System (MIS) reports before (insert date before March 15) to (insert title and address of person responsible for receiving information). To certify compliance the contractor shall use the "ALCOHOL AND CONTROLLED SUBSTANCES TESTING" Certifications in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register. The Contractor agrees further to [Select a, b, or c] (a) submit before (insert date or upon request) a copy of the Policy Statement developed to implement its drug and alcohol testing program; OR (b) adopt (insert title of the Policy Statement the recipient wishes the contractor to use) as its policy statement as required under 49 CFR 655; OR (c) submit for review and approval before (insert date or upon request) a copy of its Policy Statement developed to implement its drug and alcohol testing program. In addition, the contractor agrees to: (to be determined by the recipient, but may address areas such as: the selection of the certified laboratory, substance abuse professional, or Medical Review Officer, or the use of a consortium).

**32. CONFORMANCE WITH NATIONAL INTELLIGENT TRANSPORTATION  
SYSTEMS (ITS) ARCHITECTURE**  
23 U.S.C. § 517(d)

**Note: This clause is only required for procurements involving ITS capital projects. Examples of ITS capital projects include geographic information systems (GIS) mapping, global positioning system (GPS) technology, coordinated vehicle scheduling, dispatching and monitoring technologies, technologies to track costs and billing in a coordinated system, electronic customer payment systems, and travel information systems.**

**Model Clause/Language**

While FTA has not yet provided model clause language, the following language is suggested based on the FTA Master Agreement and Certifications and Assurances for FY 2016:

**National Intelligent Transportation Systems Architecture and Standards.** The Contractor agrees that Intelligent Transportation System (ITS) technology purchased under this contract will conform to the National ITS Architecture requirements of 23 U.S.C. § 517(d), as amended, and, except as the Federal Government determines otherwise in writing, follow FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 *Federal Register* 1455 *et seq.*, January 8, 2001, and any other applicable Federal guidance. The Contractor further agrees that ITS technology purchased under this contract will conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under 23 U.S.C. § 517(a) or (c), unless it obtains a waiver as provided in 23 U.S.C. § 517(d)(2)

# Chapter 5 - Financial Management and Accounting

## INTRODUCTION

Section 5310 funding subrecipients must have the financial capacity to carry out the project funded by the FTA program. Financial capacity is an important criterion for qualifying for a grant under the Section 5310 program, and documentation is critical for reimbursement eligibility. The following requirements related to financial management and accounting apply to all Section 5310 subrecipients:

- **Local Match** – You must have sufficient local financial resources to match the Federal funds.
- **Eligible Expenses** – The expenses for which Section 5310 funds may be used are limited, and your organization must have accounting procedures with sufficient detail to track eligible expenditures (verified through an annual audit).
- **Reimbursement** – If your Section 5310 grant is for a vehicle, then MTA will procure your vehicle on your behalf. For all other Section 5310 grants, you will receive funds on a reimbursement basis following your submittal of a request for payment with required documentation to MTA. This means you must have adequate cash flow to cover your actual expenses in advance of grant funding reimbursement.
- **Reporting/Program Measures** - Each subrecipient must report financial and operating data on the use of funds and equipment purchased with Section 5310 funds on a quarterly basis. You must have adequate procedures for maintaining required records as needed to prepare these reports and justify reimbursement requests.
- **Recordkeeping** - Each subrecipient must maintain financial and operating records related to the project grant for at least 3 years after project close-out or until MTA no longer has a lien on your vehicle's title.
- **Audit** – You must notify MTA of any audit findings related to Section 5310 funding until your project is closed out or MTA no longer has a lien on your vehicle's title. Additionally, if your organization meets the Federal threshold in annual grant award expenditures, this audit must meet Federal audit requirements.
- **Project Close-Out** - Closeout of grants should be initiated by MTA within 60 days after all funds are expended and/or all work activities for the project are completed.

- **Cost Allocation Plan** – If you intend to request Section 5310 funding for transportation program costs that are shared with other funding sources, then you must have an MTA-approved cost allocation plan for allocating costs among funding programs and services.

## LOCAL MATCH

Each grant received under the Section 5310 program (as well as under the prior JARC and New Freedom programs) requires a local financial contribution that matches the Federal funds.

### Minimum Amounts

The Federal share of eligible capital expenses may not exceed 80% of the net project costs, and the Federal share of eligible operating expenses may not exceed 50% of the net operating costs. This means that the local match for capital grants must be at least 20% of the net project costs and at least 50% of net operating costs. These percentages are summarized in the following table.

Match Requirements		
<i>Type of Funding</i>	<i>Federal Share (maximum)</i>	<i>Local Share (minimum)</i>
Capital	80%	20%
Operating	50%	50%

### Providing the Local Match

Local match availability is required to draw down appropriate Federal Section 5310 funds.

The local match for Section 5310 capital funding must be provided in cash.

For capital items purchased by MTA on behalf of the subrecipient (such as vehicles), the local share must be paid to MTA within 30 days after acceptance of the vehicle or other capital items eligible for funding on a reimbursement basis. An invoice will be sent to your agency with the appropriate amount specified.

For any Section 5310 capital items not purchased by MTA, or for any Section 5310 operating expenses incurred by your agency, your agency will be responsible for paying all costs (including paying your local share) up front, after which you will seek reimbursement from MTA for the Federal share.



See Appendix 5.A for information pertaining to in-kind local match for operating or mobility management projects.

## Sources of Matching Funds

All of the local share must come from sources other than Federal Department of Transportation (DOT) funds. Federal DOT program funds cannot be used as a source of local match for other FTA programs, even when used to contract for service. Some examples of sources for local match monies that may be used for any or all of the local share include local appropriations, other non-DOT Federal funds, dedicated tax revenues, private donations, revenue from human service contracts, and net income generated from advertising and concessions.

Non-DOT Federal sources which may provide local match funds include (but are not limited to):

- U.S. Department of Agriculture
  - Food and Nutrition Service
- U.S. Department of Education
  - Office of Elementary and Secondary Education
  - Office of Innovation and Improvement
  - Office of Special Education and Rehabilitative Services
- U.S. Department of the Interior
  - Bureau of Indian Affairs
- U.S. Department of Health and Human Services
  - Health Resources and Services Administration
  - Centers for Medicare and Medicaid Services
  - Administration on Aging
  - Substance Abuse and Mental Health Services
  - Administration for Children and Families
- U.S. Department of Housing and Urban Development
- U.S. Department of Labor
  - Employment Standards Administration
  - Veterans' Employment and Training Service
  - Employment and Training Administration
- U.S. Department of Veterans Affairs
  - Veterans Benefits Administration
  - Veterans Health Administration

Some examples are the Community Development Block Grant, and the Appalachian Regional Commission funds.

Income from contracts to provide human service transportation may be used to either reduce the net project cost (i.e., treated as operating revenue) or provide local match for operating assistance. In either case, the cost of providing the contract service is included in the total project cost.

## **ELIGIBLE EXPENSES**

Funds for the Section 5310 program must be used for capital or operating expenses to support the provision of transportation services to meet the special needs of elderly individuals and individuals with disabilities.

### **Eligible Capital Expenses**

In accordance with FTA guidance, at least 55 percent of Section 5310 funds must be utilized for public transportation capital projects that are planned, designed, and carried out to meet the specific needs of seniors and individuals with disabilities. Eligible capital expenses that meet this 55 percent requirement involve the following:

- 1) Rolling stock and related activities for Section 5310-funded vehicles
  - a. acquisition of expansion or replacement buses or vans, and related procurement, testing, inspection, and acceptance costs;
  - b. vehicle rehabilitation or overhaul;
  - c. preventative maintenance - FTA defines preventive maintenance as "all maintenance costs related to vehicles and non-vehicles. Specifically, it is defined as all the activities, supplies, materials, labor, services, and associated costs required to preserve or extend the functionality and serviceability of the asset in a cost effective manner, up to and including the current state of the art for maintaining such an asset." Common expenses that are eligible for capital funding include, but are not limited to, oil changes, tire rotation, tire replacement, transmission flushes, vandalism repairs, mechanic training, and associated labor costs. Fuel, accident repairs, insurable items, and warranty are not considered preventive maintenance and are therefore ineligible for capital funding under Section 5310. However, they may be eligible for 5310 funding as operating expenses;
  - d. radios and communication equipment; and

- e. vehicle wheelchair lifts, ramps, and securement devices.
- 2) Support equipment for Section 5310 Program
- a. computer hardware and software;
  - b. transit-related intelligent transportation systems (ITS); and
  - c. dispatch systems.
- 3) Support for mobility management and coordination programs among public transportation providers and other human service agencies providing transportation. Mobility management activities may include:
- a. promotion, enhancement, and facilitation of access to transportation services, including the integration and coordination of services for individuals with disabilities, seniors, and low-income individuals;
  - b. support for short-term management activities to plan and implement coordinated services;
  - c. support of State and local coordination policy bodies and councils;
  - d. operation of transportation brokerages to coordinate providers, funding agencies, and passengers;
  - e. provision of coordination services, including employer-oriented transportation management organizations' and human service organizations' customer-oriented travel navigator systems and neighborhood travel coordination activities such as coordinating individualized travel training and trip planning activities for customers;
  - f. development and operation of one-stop transportation traveler call centers to coordinate transportation information on all travel modes and to manage eligibility requirements and arrangements for customers among supporting programs; and
  - g. operational planning for the acquisition of intelligent transportation technologies to help plan and operate coordinated systems inclusive of geographic information systems (GIS) mapping, global positioning system technology, coordinated vehicle scheduling, dispatching and monitoring technologies, as well as technologies to track costs and billing in a coordinated system, and single smart customer payment systems. (Acquisition of technology is also eligible as a standalone capital expense).

## Other Eligible Capital and Operating Expenses

Up to 45% of a rural, small urbanized area, or large urbanized area's annual apportionment may be utilized for the following:

- 1) public transportation projects (capital only) planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;
- 2) public transportation projects (capital and operating) that exceed the requirements of ADA;
- 3) public transportation projects (capital and operating) that improve access to fixed-route service and decrease reliance by individuals with disabilities on ADA-complementary paratransit service; or
- 4) alternatives to public transportation (capital and operating) that assist seniors and individuals with disabilities with transportation.

## COST ALLOCATION PLAN

If a subrecipient receives operating assistance under the Section 5310 program, and the subrecipient's transportation program is funded by other grants or contracts in addition to Section 5310, the subrecipient must have an MTA-approved cost allocation plan for allocating operating costs among programs that fund the service. Examples of this could be meal delivery funded under Title IIIC of the Older Americans Act, client transportation services that are charged to another grant such as Head Start, or transportation under contract to another organization.

Additional details are provided in Appendix 5.B. Note that, while this appendix includes guidelines for allocating indirect (organizational overhead) costs among programs, subrecipients may not charge indirect expenses to Section 5310 grants.

Human service agencies should contact their 5310 Program Manager before developing their cost allocation plan.

## THE REIMBURSEMENT PROCESS

With the exception of vehicles purchased by MTA on behalf of Section 5310 subrecipients, all MTA-administered grants are issued to subrecipients on a reimbursement basis. Costs must be incurred by the subrecipient before payment is

made by the MTA. For financial reimbursement, the subrecipient must submit via U.S. Mail the following items to their MTA Section 5310 Program Manager no less than on a quarterly basis of each fiscal year (July 1 to June 30):

- Request for Payment forms (quarterly), following the instructions provided with the form. See Attachment 5.A for the Capital Assistance Request for Payment form and Attachment 5.B for the Operating Assistance Request for Payment form.
- Back-up operating data (budget) showing monthly activities for the quarter in which the subrecipient is seeking financial reimbursement. This information should accompany the Request for Payment. See Attachment 5.C for the Financial Report form (also referred to as the Operating Payment Request Backup Sheet). For a capital reimbursement, the subrecipient must submit a copy of all supporting documentation, including your original invoices, for purchases and a copy of the concurrence letter that was received from the subrecipient's MTA Section 5310 Program Manager.
- Program-specific reporting form (quarterly) which must correspond with the Request for Payment form and the back-up data. These forms are to be submitted in paper and electronic formats. Section 5310 reporting requirements and instructions for completing the quarterly reporting form are described in the next section. See Attachment 5.D for the Quarterly Report form.

Once MTA has received and approved the Request for Payment and accompanying statements, it generally takes 30 business days for the reimbursement check to be generated.

## REPORTING/PROGRAM MEASURES

### Section 5310 Reporting Requirements

In accordance with State and Federal requirements, each subrecipient must report financial and operating data on the use of funds and equipment purchased with Section 5310 funds on a quarterly basis.

The Section 5310 reporting form (Attachment 5.D) is provided to subrecipients as a Word file and must be submitted to MTA electronically, no more than 30 days after the end of each quarter as long as you have an active Section 5310-funded vehicle or grant.

- **If you have a Section 5310 vehicle awarded under a Capital grant**, you must submit quarterly reports until there is no longer an MTA security lien on the

title of vehicle to the subrecipient (typically at least 6 years for small buses and at least 4 years for smaller vehicles). Once an MTA/FTA-funded vehicle has reached the end of its useful life (see Chapter 6) and has been retitled to your agency, it no longer needs to be reported except in the context of questions addressed to your agency's client transportation program as a whole.

- **If you have a Section 5310 Operating grant or an ongoing Capital project** such as preventive maintenance or mobility management activities, you must submit quarterly reports, in support of your Quarterly Request for Payment, until all grant funds are expended and the grant is closed out (typically 1-2 years).

Subrecipients must maintain back-up documentation on file that supports the data reported in the quarterly report. Back-up documentation of any significant change to your transportation program that occurred during the year should be submitted as part of the annual grant application to the MTA. Examples of such changes include a reduction in service due to a reduction in operating funding or a vehicle becoming inoperable.

## **Instructions and Definitions for Completing the Section 5310 Quarterly Reporting Form**

Organization: List the name of the organization with which the Grant Agreement is executed.

Change of Name or Address: If your agency has relocated or changed names, or if the name of the project director has changed, indicate this in the space provided.

Reporting Period: Indicate calendar year and check the quarter for which the report is being completed.

### ***A. Client Transportation Service Description***

- Indicate the population characteristics of the people you transport by checking the appropriate boxes.
- Indicate the activities for which you provide transportation by checking all that apply on a regular basis.
- Indicate the total number of vehicles used in client transportation including backup vehicles. Also indicate the number of backup vehicles, and the number of vehicles equipped with wheelchair lifts or ramps.
- An important goal of the Section 5310 program is to ensure that vehicles funded under this program are used in a coordinated manner to the

maximum extent feasible with other human service and public transit providers. Indicate whether or not your agency participated in any coordination activities this quarter, and, if so, describe these activities. Examples include timesharing vehicles with other agencies, transporting each other's clients, and cooperative purchasing service (fuel, maintenance, etc.).

- Number of individuals with access to 5310 vehicles (could be entire clientele).

## ***B. Operating Data***

- Vehicle Maintenance Expenses: Provide quarterly vehicle maintenance costs for each Section 5310 vehicle and for your total transportation program, including the following expenses:
  - Mechanic Salaries - includes all wages paid to mechanics and mechanic aides on staff.
  - Fringe Benefits - includes the cost of fringe benefits for mechanics and mechanic aides on staff.
  - Maintenance Service Contracts - includes the cost of outside contracts for passenger vehicles maintenance.
  - Materials & Supplies - includes the cost of materials and supplies to maintain passenger vehicles and includes any materials and supplies not provided through a maintenance service contract.
  - Maintenance Facility Rental - includes costs incurred by renting a facility in which vehicles are maintained by staff mechanics and/or aides.
  - Equipment Rental - includes costs of renting maintenance equipment and includes any equipment rental costs not provided through a maintenance service contract.
  - Utilities - includes all utility costs for maintenance facilities. If maintenance facilities are not metered separately, all utility costs should be included in the Administration utilities costs.
  - Other - includes other maintenance expenses not categorized above
- Vehicle Hours in Service: vehicle hours operated with passengers during the quarter.
- Vehicle Miles in Service: vehicle miles operated with passengers during the quarter.
- One-way Passenger Trips: number of one-way passenger trips (rides) made during the quarter on each Section 5310-supported vehicle and in total. A

passenger trip is defined as one person traveling from point "A" to point "B." When the same person returns from "B" to "A", this counts as another passenger trip. Reported ridership must be based on actual boardings counted on driver trip sheets or some other MTA approved criteria. The subrecipient must document the method they use to count passenger trips.

- Use of Section 5310 Vehicles: Briefly indicate how each Section 5310 vehicle was used during the quarter, including trip purpose and geographic location.
- Odometer Reading: the end-of-quarter odometer reading for each Section 5310 vehicle.
- Number of Days Operated During Quarter: the number of days each Section 5310 vehicle was used during the quarter.
- Operating Expenses: This is the amount of expenses charged in the reporting period to the Section 5310 Operating grant. This amount must be backed up by the subrecipient submittal of the Operating Payment Request Backup Sheet (Attachment 5.C, also referred to as the 5310 Financial Report).

### ***C. Insurance Certification***

- The quarterly reporting form also serves as a means of providing ongoing certification that minimum insurance coverages are provided. The authorized signature required with each report acknowledges that that Section 5310 insurance requirements continue to be met. For more information on these requirements, please see Chapter 6.

### ***D. Major Safety/Security Incidents***

- Reportable Incidents\* - total number of safety or security incidents occurring on Section 5310 vehicles (either on-the-road, or on-board, or as part of maintenance or repairs to the vehicle) during the quarter that results in one or more of the following conditions: a fatality confirmed within 30 days of the incident, an injury requiring immediate medical attention away from the scene for one or more persons, property damage equal to or exceeding \$25,000, and/or an evacuation for life safety reasons.
- Fatalities\* - total number of deaths, including suicides but excluding deaths that are a result of illness or other natural causes, confirmed within 30 days of a reported incident.
- Injuries\* - Any physical damage or harm to persons as a result of an incident that requires immediate medical attention away from the scene.



\* Note that fatalities and other major incidents, as defined above, must be reported to MTA as soon as possible after the occurrence, in addition to the quarterly report.

## RECORDKEEPING

Each subrecipient must maintain financial and operating records related to the project grant, including all expenses charged to the project, maintenance and repair records for funded vehicles, revenues, in-kind services, cash contributions, and grant funds, and must provide these documents as requested by the MTA. In general, each subrecipient must maintain records that support each grant for a minimum of three years after close-out of the grant (or 3 years after MTA releases a security lien on the title of a vehicle purchased under S. 5310, JARC, or New Freedom). It is suggested that printed copies of electronic records should be maintained, as electronic files are easily lost or damaged. Financial and operating data (as required for quarterly reporting) must be collected that allows for completion of required reports and monitoring of potential compliance issues.

## AUDIT

For any fiscal year before your Section 5310 grant is closed out or the lien is released from your 5310-funded vehicles, your organization must report any audit findings related to Section 5310 funding to the MTA. MTA will follow up on any Section 5310-related audit findings with the subrecipient to ensure that these findings are resolved.

Organizations that expend \$750,000 or more in Federal grant awards in a single fiscal year must conduct their annual audit in accordance with the Federal single audit requirements under 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," Subpart F—Audit Requirements. Often referred to as the "Super Circular," 2 CFR Part 200 superseded former OMB Circulars A-122 and A-133 as of December 26, 2014. Subpart F—Audit Requirements can be found online here: <http://www.ecfr.gov/cgi-bin/text-id.x?SID=baf3bba1aab1f70d0c92dcef95b283bf&mc=true&node=sp2.1.200.f&rgn=div6>

In determining whether your organization meets the \$750,000 threshold, Federal grant awards from any Federal program, not just FTA, count toward the threshold. Also, items purchased by the State for a subrecipient (e.g., Section 5310-funded vehicles) count towards the Federal threshold. However, FTA does not require a Federally-compliant audit of a subrecipient when assistance is provided solely in the form of capital equipment procured directly by the State (although your other Federal funding sources may require it).

Section 5310 subrecipients which meet the \$750,000 threshold, and receive Section 5310 funding for anything other than a State-purchased vehicle, must send a hard copy of their 2 CFR Part 200-compliant audit report to MTA, and notify MTA of any findings in the audit related to Section 5310 funding.

MTA during each grant application cycle will be requiring the subrecipient to identify their Federal sources and amounts of funding. If their total Federal funding spent exceeds \$750,000 in the most recent fiscal year for which an audit has been completed, the subrecipient must provide appropriate audit prior to receiving Section 5310 funding.

## **PROJECT CLOSE-OUT**

All grants should be closed out on a timely basis. MTA will initiate closeout of grants within 60 days after all funds are expended and/or all work activities for the project are completed. Remember, you must keep all records related to your operating grants for a minimum of three years after its closeout (this includes time sheets). Closing out your grants as early as possible minimizes your document storage needs.

### **Closeout Procedures for Operating Projects**

Operating grants are issued for a fixed length of time, typically, July 1 through June 30. Within 60 days of the end of the grant period (typically September 1), subrecipients must submit final payment requests and supporting documentation. Failure to meet this deadline may result in your payment request NOT being honored. Once a final payment request is received, the MTA will initiate grant closeout. The MTA will send a Final Operating Budget Statement (see Attachment 5.E). The subrecipient is responsible for reporting any disagreements with the information on this statement within 30 days of its issuance; otherwise, concurrence will be assumed and the grant will be closed with a grant close-out letter (see Attachment 5.F). Once a grant has been closed out, the MTA will not honor additional payment requests which charge costs against that grant or line item which has been closed out.

### **Closeout Procedures for Capital Projects**

After the capital item(s), for which the grant was awarded, are procured, and the subrecipient has been reimbursed for the capital expense, the MTA will initiate grant closeout. As part of their continuous and ongoing oversight of each subgrantee's progress in implementing grant funded projects, the MTA Program Manager will monitor when a specific grant project is nearing completion. If you are in the final phases of a project and are requesting concurrence to make a final purchase which will complete the project, you should state this fact in your concurrence request.

Once your MTA Program Manager is made aware that you are in your final phases or have in fact already completed the project, they will initiate grant closeout. If concurrence has not been issued on final purchases, your concurrence letter will identify the purchase in question as the final purchase for which grant reimbursement payments will be honored by the MTA. If the MTA Program Manager becomes aware that a project is nearing completion after the final concurrence letter is issued, the Program Manager will develop a formal letter to the grantee indicating that the MTA will not honor further payment requests related to a specific grant and that the grant is closed.

Once you have been notified that a grant is closed, the MTA will not honor additional payment requests related to that specific project or purchase. Funds awarded to subrecipients for capital items are directly linked to the specific capital items for which the award was made, and may not be used to purchase additional items. Once the items for which the grant was awarded have been purchased, any remaining funds in the grant revert back to the MTA to be reallocated to other Section 5310 projects.

## SUMMARY

Under Chapter 5 of this manual, as a subrecipient of Section 5310 funding, you will be required to provide the following information, forms or audits:

- Payment Request Form (Attachment 5.A for Capital grants or 5.B for Operating grants) if you are seeking reimbursement.
- Financial Report (Attachment 5.C, also referred to as the Operating Payment Request Backup Sheet) if you are seeking operating reimbursement.
- Quarterly 5310 Report if you receive 5310 capital and/or operating funding. A sample 5310 Quarterly Report is provided as Attachment 5.D.
- Review of MTA's Operating (provided as Attachment 5.E) or Capital (provided as Attachment 5.F) closeout letters and budget statements.
- Annual financial audit, meeting Federal requirements if your organization meets the Federal grant expenditure threshold in a single fiscal year.



**MARYLAND DEPARTMENT OF TRANSPORTATION**  
**MARYLAND TRANSIT ADMINISTRATION**  
**CAPITAL ASSISTANCE REQUEST FOR PAYMENT**

**GRANTEE:** \_\_\_\_\_

**FEDERAL ID NO.** \_\_\_\_\_

**PROJECT NUMBER:** \_\_\_\_\_

**PCA:** \_\_\_\_\_

**AOBJ:** \_\_\_\_\_

**PAYMENT PERIOD:** \_\_\_\_\_

**CHECK PAYABLE TO:** \_\_\_\_\_

**PAYMENT TO BE FORWARDED TO:** \_\_\_\_\_

Agency/County

Street

City

State

Zip Code

**I. CAPITAL PROGRAM OUTLAYS**

**Project Budget**  
**Line Item Code**

**Project Expenditures**

**Cumulative**

00.00.00 – Description

\$ \_\_\_\_\_

\$ \_\_\_\_\_

**II. FINANCING OF PROJECT COST**

A. Total Federal Share  
 .0000 x Project Expenditure

\$ \_\_\_\_\_

\$ \_\_\_\_\_

B. Total State Share  
 .0000 x Project Expenditure

\$ \_\_\_\_\_

\$ \_\_\_\_\_

C. Total Local Share  
 .0000 x Project Expenditure

\$ \_\_\_\_\_

\$ \_\_\_\_\_

**III. REQUEST FOR PAYMENT**

Total Federal, State & Local Shares  
 (Section II, Line A + Line B + Line C)

\$ \_\_\_\_\_

**Total Payment Now Requested**

**\$ \_\_\_\_\_**

Submitted by: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



**MARYLAND DEPARTMENT OF TRANSPORTATION  
MARYLAND TRANSIT ADMINISTRATION  
OPERATING ASSISTANCE REQUEST FOR PAYMENT**

**GRANTEE:** \_\_\_\_\_

**FEDERAL I.D. NUMBER:** \_\_\_\_\_

**PROJECT NUMBER(S):** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**PCA:** \_\_\_\_\_ **AOBJ:** \_\_\_\_\_

	<u>Current Period</u>	<u>Cumulative This FY</u>
<b>I.     <u>OPERATING REVENUE AND EXPENSE SUMMARY</u></b>		
A. <u>Eligible Operating Expenses</u>		
Actual from: _____ to _____	\$ _____	\$ _____
Total Expenses .....	\$ _____	\$ _____
B. <u>Operating &amp; Other Revenue Not Includable as Local Share</u>		
Actual from: _____ to _____	\$ _____	\$ _____
Total Revenue .....	\$ _____	\$ _____
C. <u>Total Net Project Cost (Section I, Line A – Line B)</u>	\$ _____	\$ _____
 <b>II.    <u>FINANCING OF NET PROJECT COST</u></b>		
A. <u>Total Federal Share</u>		
.0000% x Net Project Cost	\$ _____	\$ _____
B. <u>Total State Share</u>		
.0000% x Net Project Cost	\$ _____	\$ _____
C. <u>Total Local Share</u>		
.0000% x Net Project Cost	\$ _____	\$ _____
D. <u>Local Overmatch</u>	\$ _____	\$ _____
<u>Itemize Local Share by Source</u>		
_____	\$ _____	
_____	\$ _____	
_____	\$ _____	
 <b>III.   <u>REQUEST FOR PAYMENT</u></b>		
Total Federal, State & Local Shares.....	\$ _____	
(Section II, Line A + Line B + Line C + Line D)		
 <b>Total Payment Now Requested</b>	<b>\$ _____</b>	
Submitted by: _____		
Signature: _____		
Title: _____		
Date: _____		





Payment Period:  
Coordinated Plan Region:  
Legal Name:

Fiscal Year:

## Section 5310 Financial Report

Enter amounts in the blue sections only.

	Total	Section 5310 Capital	Section 5310 Operating		
<b>VEHICLE OPERATIONS EXPENSES</b>					
Driver Salaries	\$ -	\$ -	\$ -	\$ -	\$ -
Dispatcher Salaries	\$ -	\$ -	\$ -	\$ -	\$ -
Fringe Benefits	\$ -	\$ -	\$ -	\$ -	\$ -
Fuel & Oil	\$ -	\$ -	\$ -	\$ -	\$ -
Vehicle Insurance	\$ -	\$ -	\$ -	\$ -	\$ -
Vehicle Depreciation (1)	\$ -	\$ -	\$ -	\$ -	\$ -
Vehicle Lease	\$ -	\$ -	\$ -	\$ -	\$ -
Vehicle License	\$ -	\$ -	\$ -	\$ -	\$ -
Vehicle Storage Facility	\$ -	\$ -	\$ -	\$ -	\$ -
Operations Training	\$ -	\$ -	\$ -	\$ -	\$ -
Other	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Subtotal Operations</b>	\$ -	\$ -	\$ -	\$ -	\$ -
<b>PURCHASED SERVICE</b>	\$ -	\$ -	\$ -	\$ -	\$ -
<b>MAINTENANCE EXPENSES</b>					
Mechanics Salaries	\$ -	\$ -	\$ -	\$ -	\$ -
Mechanics Aids Salaries	\$ -	\$ -	\$ -	\$ -	\$ -
PM-Capital Expense	\$ -	\$ -	\$ -	\$ -	\$ -
Tubes & Tires	\$ -	\$ -	\$ -	\$ -	\$ -
Fringe Benefits	\$ -	\$ -	\$ -	\$ -	\$ -
Maintenance Contract	\$ -	\$ -	\$ -	\$ -	\$ -
Materials & Supplies (parts)	\$ -	\$ -	\$ -	\$ -	\$ -
Maintenance Facility Rental	\$ -	\$ -	\$ -	\$ -	\$ -
Equipment Rental	\$ -	\$ -	\$ -	\$ -	\$ -
Utilities	\$ -	\$ -	\$ -	\$ -	\$ -
Maintenance Training	\$ -	\$ -	\$ -	\$ -	\$ -
Other	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Subtotal Maintenance</b>	\$ -	\$ -	\$ -	\$ -	\$ -
<b>ADMINISTRATIVE EXPENSES</b>					
Administrator Salary	\$ -	\$ -	\$ -	\$ -	\$ -
Manager Salary	\$ -	\$ -	\$ -	\$ -	\$ -
Secretary Salary	\$ -	\$ -	\$ -	\$ -	\$ -
Bookkeeper Salary	\$ -	\$ -	\$ -	\$ -	\$ -
Other Salary	\$ -	\$ -	\$ -	\$ -	\$ -
Fringe Benefits	\$ -	\$ -	\$ -	\$ -	\$ -
Materials & Supplies	\$ -	\$ -	\$ -	\$ -	\$ -
Telephone	\$ -	\$ -	\$ -	\$ -	\$ -
Office Rental	\$ -	\$ -	\$ -	\$ -	\$ -
Utilities	\$ -	\$ -	\$ -	\$ -	\$ -
Office Equipment Rental	\$ -	\$ -	\$ -	\$ -	\$ -
Administrative Training	\$ -	\$ -	\$ -	\$ -	\$ -
Safety & Security	\$ -	\$ -	\$ -	\$ -	\$ -
Other	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Subtotal Administration</b>	\$ -	\$ -	\$ -	\$ -	\$ -
<b>TOTAL EXPENSES</b>	\$ -	\$ -	\$ -	\$ -	\$ -

(1) Depreciation is not an eligible expense for vehicles/equipment purchased with State or Federal funds.

Payment Period:  
Coordinated Plan Region:  
Legal Name:

Fiscal Year:

## Section 5310 Financial Report

Enter amounts in the blue sections only.

	Total	Section 5310 Capital	Section 5310 Operating		
<b>FAREBOX AND OTHER REVENUE NOT INCLUDED AS LOCAL SHARE</b>					
Passenger Fares/Donations	\$ -	\$ -	\$ -	\$ -	\$ -
Advertising	\$ -	\$ -	\$ -	\$ -	\$ -
Contracts Revenue (itemize)	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -
Other		\$ -	\$ -	\$ -	\$ -
<b>TOTAL REVENUE</b>		\$ -	\$ -	\$ -	\$ -
<b>NET PROJECT COST</b> (total expenses minus total revenue)	\$ -	\$ -	\$ -	\$ -	\$ -
<b>LOCAL FUNDS/MATCH (itemize)(2):</b>					
	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -
<b>TOTAL LOCAL FUNDS/MATCH</b>	\$ -	\$ -	\$ -	\$ -	\$ -
		20%	50%		
(2) If in-kind match is used, provide detail on separate attachment. Also, if in-kind used, the expenses must be included in the Total Expenses.					
<b>FEDERAL FUNDS REQUESTED</b>	\$ -	\$ -	\$ -	\$ -	\$ -
		80%	50%		

**MARYLAND SECTION 5310 QUARTERLY REPORT**Due to the MTA's Office of Local Transit Support by the 15<sup>th</sup> of the month following each quarter per grant agreement

Organization: \_\_\_\_\_

Calendar Year: \_\_\_\_\_

Quarter: Jan-Mar ☐ Apr-June ☐July-Sept ☐ Oct-Dec ☐

Please note any change of name or address: \_\_\_\_\_

**A. CLIENT TRANSPORTATION SERVICE DESCRIPTION**

1. We provide transportation for people who have the following characteristics (please check all that apply on a regular basis):

☐ are elderly ☐ have disabilities ☐ use wheelchairs ☐ Other (please describe:) \_\_\_\_\_

2. We provide transportation for the following activities (please check all that apply on a regular basis):

☐ Adult Day Care ☐ Senior Center ☐ Rehab Center ☐ Medical ☐ Employment ☐ Education☐ Social/Recreation ☐ Shopping ☐ Other (please describe:) \_\_\_\_\_

3. Total number of vehicles used in client transportation: \_\_\_\_\_ Number of backup vehicles: \_\_\_\_\_

Of your total fleet, how many vehicles are equipped with wheelchair lifts/ramps? \_\_\_\_\_

4. Did your agency participate in any transportation coordination activities this quarter?

☐ No ☐ Yes--Please describe: \_\_\_\_\_

5. How many individuals have access to your agencies 5310 vehicles (could be entire clientele) \_\_\_\_\_

**B. OPERATING DATA:** Provide the following information for each **Section 5310 vehicle**. If your agency has more than three S. 5310 vehicles, attach additional forms as necessary.

	TOTAL	Section 5310 Vehicle ID #: _____ Model year: _____	Section 5310 Vehicle ID #: _____ Model year: _____	Section 5310 Vehicle ID #: _____ Model year: _____
VEHICLE MAINTENANCE EXPENSES (include preventive mainten. & repairs)				
VEHICLE HOURS IN SERVICE				
VEHICLE MILES IN SERVICE				
TOTAL ONE-WAY PASSENGER TRIPS (one round trip = two one-way trips)				
BRIEFLY INDICATE HOW EACH 5310 VEHICLE IS BEING USED (include trip purpose and county served)				
ODOMETER READING (end of quarter; 5310 vehicles only)				
# OF DAYS OPERATED DURING QUARTER (5310 vehicles only)				
<b>Operating Expenses:</b> If you are charging any operating expenses for the quarter, enter the total amount for the quarter. Also provide a copy of the Operating Payment Request Backup Sheet to document your operating expenses.				

**C. INSURANCE CERTIFICATION:** Section 5310 vehicles that continue to be titled to the MTA must be insured with the following minimum insurance limits: comprehensive business automobile liability minimum combined single limit for bodily injury and property damage of \$1,000,000, uninsured motorist coverage for \$30,000 per person and \$60,000 per accident, comprehensive and collision coverage for FTA's 80% financial interest in each vehicle. The authorized signature below indicates that this requirement continues to be met.

**D. MAJOR SAFETY/SECURITY INCIDENTS:** Provide the following information in total for all transportation services that are provided using Section 5310 vehicles. Note that fatalities and other major incidents, as defined below, must be reported to MTA as soon as possible after the occurrence as well as on this form.

1. REPORTABLE INCIDENTS: \_\_\_\_\_

Report the total number of safety or security incidents occurring on Section 5310 vehicles (either on board, or as part of maintenance or repairs to the vehicle) during the quarter that results in one or more of the following conditions:

- a. a fatality confirmed within 30 days of the incident
- b. an injury requiring immediate medical attention away from the scene for one or more persons
- c. property damage equal to or exceeding \$25,000
- d. an evacuation for life safety reasons

2. FATALITIES: \_\_\_\_\_

Report the total number of deaths, including suicides but excluding deaths that are a result of illness or other natural causes, confirmed within 30 days of a reported incident.

3. INJURIES: \_\_\_\_\_

Report any physical damage or harm to persons as a result of an incident that requires immediate medical attention away from the scene.

---

Prepared by \_\_\_\_\_

Phone (\_\_\_\_) \_\_\_\_\_

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

---

**GRANT CLOSEOUT  
FINAL OPERATING BUDGET STATEMENT**

**DATE** \_\_\_\_\_  
**FISCAL YEAR OF GRANT AGREEMENT** \_\_\_\_\_  
**PUBLIC BODY** \_\_\_\_\_

This statement is for the close-out of: GRANT NUMBER \_\_\_\_\_

Program name \_\_\_\_\_  
(5310, 5311, 5307, SSTAP, ADA, et cetera)

**PROJECT FINANCING**

	<b>APPROVED (FROM GRANT AGREEMENT)</b>	<b>ACTUAL (FROM "Request for Payment")</b>
STATE FUNDS	_____	_____
FEDERAL FUNDS	_____	_____
<b>SUBTOTAL S &amp; F</b>	_____	_____
LOCAL FUNDS	_____	_____
<b>TOTAL PROJECT</b>	_____	_____

This form must be returned within 30 days of issuance date. If this form is not returned, MTA will consider it correct and grant will be closed.

I concur that the grant funds for this project were spent as indicated and reflect all and final expenditures for this project related to grant # \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Date \_\_\_\_\_ Title \_\_\_\_\_





**MARYLAND TRANSIT ADMINISTRATION**

**MARYLAND DEPARTMENT OF TRANSPORTATION**

Larry Hogan, Governor • Boyd K. Rutherford, Lt. Governor  
Pete K. Rahn, Secretary • Paul Comfort, Administrator

**ATTACHMENT 5.E**

**Month, Day, Year**

**Name of Letter Recipient**

**Title**

**County**

**Address**

**City, State, Zip code**

RE: Grant Closeout – Final Operating Budget Statements [FY\_\_\_\_]

Dear Ms./Mr.[\_\_\_\_\_]:

Enclosed you will find the forms, “Grant Closeout – Final Operating Budget Statement,” for your [5310, 5311, 5307, ADA, SSTAP, etc.] Operating Grant #[\_\_\_\_\_], [5310, 5311, 5307, ADA, SSTAP, etc.] Operating Grant #[\_\_\_\_\_], and [5310, 5311, 5307, ADA, SSTAP, etc.] Operating Grant #[\_\_\_\_\_], each issued for Fiscal Year [\_\_\_\_] (July 1, [\_\_\_\_] through June 30, [\_\_\_\_]). The Maryland Transit Administration (MTA) Office of Local Transit Support has completed these forms based on the Grant Agreement document and your submitted Requests for Payment.

If you concur with the information on the forms please sign and date the forms and return to this office within thirty (30) days of the Issuance Date at the top of the forms. This action will indicate that the operating grants have been closed out. Please be aware that any remaining balance will revert back to the Maryland Transit Administration.

If the information on this form does not agree with your records please notify [Regional Planner Name] at [410-\_\_\_\_-\_\_\_\_] within thirty (30) days of the Issuance Date and he will work with you to correct any discrepancies.

We appreciate your taking time to help us close out the operating grants as discussed in the 5310 Program Manual in Chapter 5 – Financial Management.

Sincerely,

Elizabeth Kreider, Director  
Office of Local Transit Support

## ATTACHMENT 5.E

Ms./Mr. [\_\_\_\_\_]

Page Two

cc: Christy Mainley, Maryland Transit Administration  
[Name], Regional Planner, Maryland Transit Administration  
Beverly Walenga, Policy Planner, Maryland Transit Administration

Attachments: Grant Closeout – Final Operating Budget Statements  
[Copy of Appendix A from Grant Agreement]  
[Copies of Submitted Requests for Payment]





**MARYLAND TRANSIT ADMINISTRATION**

**MARYLAND DEPARTMENT OF TRANSPORTATION**

Larry Hogan, Governor • Boyd K. Rutherford, Lt. Governor  
Pete K. Rahn, Secretary • Paul Comfort, Administrator

**ATTACHMENT 5.F**

**Month, Day, Year**

**Name of Letter Recipient**

**Title**

**County**

**Address**

**City, State Zip Code**

RE: Grant Closeout – Capital Project

**Dear Ms./Mr.**[\_\_\_\_\_]:

This letter is to inform you that [\_\_\_\_\_] has completed all procurement and grant activity for the following awarded project for Fiscal Year [\_\_\_\_]: [**Project Description**\_\_\_\_\_]. As a result, we are closing the following grant as detailed below:

	FY[____] [Grant # _____] [Project Description]
LINE ITEM #	
Federal Award	\$
State Award	\$
Local Award	\$
<b>TOTAL AWARD</b>	\$
<b>TOTAL SPENT</b>	\$
<b>BALANCE to MTA</b>	\$
<b>UNUSED LOCAL SHARE</b>	\$

As of the date of this correspondence, the above grant/line item for Fiscal Year 2013 is complete and all procurement activity agreed to has ceased. No further purchase activity may be made from this grant/line item. The chart above shows the amount that will revert back to the MTA as well as the unused local share.

## ATTACHMENT 5.F

**Ms./Mr.**[\_\_\_\_\_]   
Page Two

If you have any questions regarding the closure of Grant# [\_\_\_\_\_] , please  
call [ **Regional Planner** ] at [\_\_\_\_]-[\_\_\_\_]-[\_\_\_\_] or email  
[\_\_\_\_\_].

Sincerely,

Elizabeth Kreider, Director  
Office of Local Transit Support

cc: Christy Mainley, Maryland Transit Administration  
[Name], Regional Planner, Maryland Transit Administration  
Beverly Walenga, Policy Planner, Maryland Transit Administration

# Chapter 6 - Vehicles and Other Equipment

## INTRODUCTION

If your organization has any Section 5310-funded vehicles or other equipment, this chapter applies to you. This chapter describes the requirements related to vehicles and other equipment funded under the Section 5310 program.

FTA defines equipment as all tangible, nonexpendable, personal property that has a service life of more than one year and an acquisition cost that meets or exceeds a minimum unit cost. The MTA unit cost threshold for equipment subject to certain requirements is \$300.

Organizations with any Section 5310-funded vehicles and other equipment with a unit cost of \$300 or more are subject to the following requirements addressed in this chapter:

- **Procurement** – When purchasing grant-funded equipment, you must follow Federal and State requirements that apply to procurement, introduced briefly in this chapter and described in detail in Chapter 4.
- **Use of Grant-Funded Equipment** – Grant-funded equipment must be used as specified in the MTA-approved application.
- **Inventory Records** – An inventory that includes specific data must be maintained for any grant-funded equipment with a unit cost of \$300 or more as well as desktop computers.
- **Maintenance** – Grant-funded vehicles must be maintained in good working order through a State- and Federally-compliant preventive maintenance program.
- **Minimum Vehicle Useful-Life Policy and Lien Release** – Grant-funded vehicles are expected to be maintained and remain in service for a minimum number of years and miles, based on type of vehicle. MTA will retain a lien on the vehicle title until it meets minimum useful-life criteria.
- **Disposition** – Once a grant-funded vehicle is no longer usable, the subrecipient must follow certain procedures in order to dispose of it and must follow prescribed procedures on how disposal proceeds are used.
- **Insurance Requirements** – Minimum insurance levels must be maintained for grant-funded vehicles as well as agency umbrella liability coverage.

- Vehicle Accident Procedures and Reporting Requirements – In the event of an accident involving a grant-funded vehicle, specific procedures must be followed.

Finally, Federal & State requirements related to commercial vehicles are briefly introduced in this chapter. However, these requirements are beyond the purview of MTA and subrecipients should consult the appropriate enforcement agency for more information. Contact information can be found on page 6-18 and more information is provided in Chapter 8.

## **PROCUREMENT**

Vehicles (small buses) funded under the Section 5310 program are procured on a statewide basis by the MTA on behalf of the subrecipients. Procurement of other equipment (including minivans) is the responsibility of the local subrecipient, which must comply with Federal and State requirements. MTA/FTA procurement requirements are addressed in Chapter 4 of this manual.

Note that the MTA must also concur in writing with the recommendation for award prior to the execution of a local contract or purchase order valued at more than \$300 if capital grant funds are involved.

## **USE OF GRANT-FUNDED EQUIPMENT**

All vehicles and other equipment funded by the Section 5310 program must be used as specified in the approved application. Equipment must also be maintained in compliance with the manufacturer's specifications, as discussed further in this chapter.

If vehicles or other equipment are operated by any agent other than the subrecipient in the grant application, control and responsibility for the operation of the vehicles or other equipment must remain with the original recipient, unless transfer of the control and responsibility to another eligible organization has been authorized by the MTA.

### **Section 5310 Vehicles**

Vehicles funded by the Section 5310 program may be used only as follows:

- By the subrecipient as described in its approved application. Any changes from the original use stated in the application must be approved by the MTA prior to the subrecipient engaging in the new use.

- By subrecipients to coordinate transportation services for elderly individuals and individuals with disabilities with other agencies also serving these populations.
- By subrecipients to coordinate and assist in providing meal delivery services for homebound persons if it does not conflict with the provision of transportation services or result in a reduction of service to transportation passengers. Contact MTA for guidance and approval.
- By subrecipients to coordinate unused vehicle time with another agency, so that maximum vehicle utilization is achieved. The subrecipient must work with and receive the MTA's approval of any of these types of coordination activities prior to implementing them.
- Section 5310 funds may not be used to support services that compete with public transit or private-for-profit providers, to provide transportation for school children, or for any charter purposes.

Subrecipients with vehicles funded under the former JARC or New Freedom programs should consult Appendix 6.A for usage requirements related to these vehicles.

## INVENTORY RECORDS

Subrecipients are required to maintain the following records on all FTA/MTA-funded vehicles and other equipment with a unit cost of \$300 or more, as well as desktop computers.

- description of the equipment,
- serial number or other identification number,
- who holds the title,
- acquisition date,
- cost of the equipment,
- percentage of Federal/State participation in the cost of the equipment,
- MTA grant or project number under which it was procured,
- FTA grant agreement number under which it was procured, if applicable,
- location, use, and condition of the equipment,
- useful life, and
- disposition date, including date of disposal and sale price of the equipment.

MTA requires subrecipients with vehicles or equipment funded under Section 5310 to submit an asset inventory, listing all of their transportation program vehicles and equipment, with their biennial 5310 grant application which is maintained on file at the MTA. The subrecipient is also required to conduct a physical inventory of all transportation program vehicles and equipment every year, and submit this to MTA for the duration of the service-life cycle of the FTA/MTA-funded vehicles and equipment even if they do not submit a 5310 grant application. A sample inventory sheet submitted as part of the application cycle is provided as Attachment 6.A.

In addition, vehicle inventory information must be provided as part of the reporting forms submitted to MTA on a quarterly basis, both manually and electronically.

Finally, all FTA/MTA-funded equipment must be tagged or otherwise identified as government property, and a control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of project property. Any loss, damage, or theft must be investigated and documented by the subrecipient.

## **MAINTENANCE**

All vehicles funded under the Section 5310, JARC and New Freedom programs must be maintained in full compliance with the manufacturer's recommendations. Subrecipients have full responsibility for such maintenance, as well as routine operating items such as tag renewal and emissions testing. The MTA will forward tag renewal and emissions testing notices to the recipient if received from the Motor Vehicle Administration.

An effective vehicle maintenance program involves two major components: preventive maintenance and repairs, both described within this section. All subrecipients must have a written maintenance plan that addresses these components. A sample maintenance plan is provided as Attachment 6.B.

### **Preventive Maintenance**

A preventive maintenance program provides thorough, periodic inspections at intervals that meet or exceed the manufacturer's minimum standards for each vehicle given the terrain and operating conditions experienced by your service. A mileage-based or time-based series of intervals for servicing that is strictly followed is the approach recommended by the MTA.

As an example, a typical preventive maintenance plan would require an oil change and basic safety inspections be performed every 3 months or 3,000 miles (whichever comes first), with more major services and inspections at longer intervals (semi-annually or 7,500 miles, annually or 15,000 miles, every two years, etc.). This ensures that fluids and

parts are replaced before they break down and/or make the equipment unsafe to operate. Though it requires an up-front investment, preventive maintenance results in cost savings over the lifetime of a vehicle and maximizes its service-life.

### ***Driver Pre-trip and Post-trip Inspections***

Daily inspection of vehicles by drivers prior to putting vehicles into service is an important element of preventive maintenance. Inspections at the end of the service day (post-trip) are also recommended. Drivers should be trained in how to conduct these inspections and be required to complete inspection forms appropriate for their vehicle. If the vehicle is equipped with a wheelchair lift, the pre-trip inspection must include cycling of the lift. If a driver finds a significant deficiency during the inspection (such as a headlight or brake light out, or an inoperative wheelchair lift), the deficiency must be repaired before the vehicle is placed into service. A sample Driver Pre-and-Post Inspection Sheet is provided as Attachment 6.C.

### ***Maintenance of ADA and Other Equipment***

As mandated under the Americans with Disabilities Act, accessibility equipment on your vehicles must be maintained in good working order. This includes performing preventive maintenance according to equipment manufacturer's specifications, cycling lifts as part of every pre-trip inspection, and performing repairs on a timely basis.

Subrecipients must also maintain safety equipment and other FTA-funded equipment, including but not limited to mobile radios, automatic vehicle location technology, mobile data terminals, automatic passenger counters, and on-board cameras.

Maintenance of ADA accessibility features, safety equipment, and other equipment must be included in your written maintenance plan.

### ***Vehicle Cleaning***

All MTA-funded vehicles should be washed and their interiors cleaned on a regular basis. Vehicles should be swept out and trash disposed of at the end of each service day or driver shift.

### ***Maryland Preventive Maintenance Program Requirements***

Note that agencies that operate vehicles with a seating capacity of 16 passengers or more, including the driver, as well as publicly-owned non-school buses designed to carry more than 10 people, must also comply with the Maryland Preventative Maintenance Program requirements. This program requires that commercial vehicles be systematically inspected, repaired, and maintained every 12 months or 25,000 miles, whichever occurs first. More information about this program, which is under the

purview of the Maryland State Highway Administration rather than the MTA, can be found later in this chapter under “Federal and State Requirements Related to Commercial Vehicles.” Please check with your MTA Program Manager about these Maryland maintenance requirements if you do or think you do operate vehicles of the capacities described above.

## **Repairs**

When repairs are needed, a repair order (or work order) should be used to record and track all repair work and be included in your recordkeeping for the vehicle. If you contract out repair work, it is critical that your contractor be responsive to your scheduling needs to ensure that you have enough vehicles to continue normal operations.

Warranty work should be handled by an authorized representative of the manufacturer. Remember, you must secure and utilize any warranties available to you when the need arises and you must record and document any warranty work performed on your vehicle(s).

## **Recordkeeping**

Subrecipients must maintain records that document preventive maintenance, repair work and warranty work that was performed on your vehicle(s) to meet minimum manufacturer’s standards, including servicing of ADA equipment. MTA will review this documentation during site visits to verify compliance with Federal and State requirements.

Each subrecipient must establish a process (file system) for recording the maintenance/repair work performed on each vehicle(s), and it is also recommended that a method for analyzing overall maintenance performance and costs be established by the subrecipient. Such a process, often called a Management Information System (MIS), tracks maintenance information, including preventive maintenance services, repairs, costs by vehicle, fuel use and efficiency by vehicle, road calls, parts/labor cost breakouts, and per-mile cost.

## **Outsourcing Maintenance and Repairs**

The subrecipient may contract with a public body, a private non-profit, or a private for-profit organization for services such as maintenance, repair and use of garage facilities. If you contract for maintenance, you must monitor the contractor to ensure compliance with FTA/MTA requirements, record all work and assess costs to ensure cost effectiveness.



Outsourced maintenance must also comply with procurement and purchasing requirements as described in Chapter 4 of this manual and with the appropriate methodology followed to select the vendor(s) depending on the dollar amounts involved. If your organization contracts for maintenance of Section 5310-funded vehicles, or using Section 5310 operating funds, the maintenance contract must include required FTA clauses (described in Chapter 4 of this manual).

## **MINIMUM VEHICLE USEFUL-LIFE POLICY AND LIEN RELEASE**

Section 5310 vehicles will be jointly titled to the State and the subrecipient. The State will hold the vehicle title until the vehicle has reached its minimum useful-life standard after which the title will be signed over to the subrecipient. Subrecipients may not sell or otherwise dispose of a vehicle while MTA holds the lien.

### **Minimum Useful-Life Standards**

To ensure that vehicles are adequately maintained and remain in service for their normal service life, the MTA has established minimum useful-life standards for vehicles funded with State or Federal funds. These standards apply to all vehicles purchased with Sections 5307, 5309, 5310, 5311, 5316, 5317, 5339, American Disabilities Act (ADA), or Statewide Special Transportation Assistance Program (SSTAP) funds, and to all vehicles that will be replaced with vehicles funded from these programs, regardless of the initial funding source.

Service-life begins on the date the vehicle was placed in service and continues until it is removed from service.

<b>Classification</b>	<b>Years</b>	<b>Miles</b>	<b>GVWR</b>	<b>Length</b>
Small Specialized Vehicles (Accessible Minivans and Accessible Taxicabs) & Sedans	4 years	150,000	< 14,000 lbs.	n/a
Fleet Support Vehicles (Pick-up trucks and utility vehicles)	6 years	200,000	n/a	n/a
Light Duty Small Bus	6 years	200,000	15,000 lbs. or less	n/a
Medium Duty Bus	8 years	250,000	>15,000 lbs. and < 23,000 lbs.	Under 30'
Heavy Duty Bus	10 years	350,000	all	Under 35'
Heavy Duty Bus	12 years	500,000	all	Over 35'
Non-Revenue Vehicle	10 years	130,000	all	n/a

\*\*\*To classify your vehicle, both the gross vehicle weight ratio (GVWR) and the length of the vehicle must be met. We will provide a matrix that shows the type of equipment that is eligible for the various programs.

## Vehicle Classifications

If there is ever a question about what a certain vehicle's classification might be, the Altoona Test used for that vehicle is always the substantiating documentation as to its classification. FTA Altoona Bus Test Reports can be found at <http://altoonabustest.psu.edu/test-reports.htm>.

- Small Specialized Vehicles (Accessible Minivans and Accessible Taxicabs) & Sedans: at least four (4) years of service and/or an accumulation of at least 150,000 miles.
- Support Vehicles (Pick-up Trucks and Utility Vehicles): at least six (6) years of service and/or an accumulation of at least 200,000 miles.
- Light Duty Small Bus, body- on-chassis type (cutaway): at least six (6) years of service and/or an accumulation of at least 200,000 miles.
- Medium Duty (under 30') Transit Buses: at least eight (8) years of service and/or an accumulation of at least 250,000 miles.
- Heavy Duty (30'-35') Transit Buses: at least ten (10) years of service and/or an accumulation of at least 350,000 miles.
- Heavy Duty (greater than 35') Transit Buses: at least twelve (12) years of service and/or an accumulation of at least 500,000 miles.

Although a minimum standard for useful-life is adopted, additional information about the condition of the vehicle is necessary for all replacement requests. Vehicles will not

be replaced based solely on age and accumulated mileage. Therefore, details such as repair records or estimated repair costs must be provided with the request.

## Replacement Prior to Meeting Minimum Useful-Life Criteria

If a replacement vehicle is being requested for a vehicle which has not or will not meet the established useful-life criteria, the applicant must describe the circumstances necessitating the replacement of the vehicle. The applicant would need to complete the information above, in addition to providing the following information:

- A list of any repairs that will be required to keep the vehicle in service, and an estimated cost of each repair,
- A description and cost of repairs made to the vehicle to date (attach the repair and preventive maintenance records, if available).

FTA classifies this as early asset replacement.

## Releasing the Vehicle Lien and Title

If the subrecipient wants to dispose of a vehicle funded by FTA/MTA, the subrecipient must first request and obtain a release of the lien and title from the MTA.

When the vehicle reaches its minimum useful life, the subrecipient may request a lien release. After a vehicle has exceeded its minimum useful-life criteria by two years or more, the subrecipient *must* request a lien release.

If the vehicle has not yet reached its minimum useful life, the recipient should first call the MTA to discuss the circumstances before requesting a lien release.

The process for a lien release after a vehicle has attained its minimum useful life is as follows:

1. The subrecipient completes and submits to the MTA a letter of request to release the lien and notice of intent to sell the FTA-funded vehicle. A sample letter is provided as Attachment 6.D.
2. Upon receipt of the letter, the MTA will review the matter and determine whether it retains further interest in the vehicle and whether reimbursement of the Federal/State share of its remaining value must take place.
  - If the vehicle has no remaining service-life (as defined in the preceding section), the MTA will then provide written approval and transmit the title for the vehicle to the recipient. After the normal service life is met and the MTA releases the lien, the MTA no longer retains a financial interest in the vehicle. Once the subrecipient receives the lien release, it may either keep the

vehicle and continue to use it, or it may dispose of the vehicle as described in the next section.

- If the vehicle has remaining service-life (as defined in the preceding section), the MTA will review the circumstances on a case-by-case basis. Some vehicles may no longer be needed, or may have mechanical problems which might justify selling the vehicle prior to the expiration of its useful life. If the vehicle is useable, the MTA may reallocate it to another agency, and the recipient will be given appropriate guidance.

## DISPOSITION

The subrecipient will eventually face the decision to sell or otherwise dispose of a vehicle or other equipment funded by Section 5310 or the former JARC and New Freedom programs. If this decision comes as a result of an accident with the vehicle, refer to the "Vehicle Accident Procedures and Reporting Requirements" section, which is found later in this chapter, for guidance.

Otherwise, subrecipients may dispose of vehicles and other equipment at the end of their useful life after notifying and receiving disposition instructions from the MTA. Note that MTA disposal approval is required even if the MTA has released the lien.

All subrecipients need a proper vehicle disposition policy that is approved by the MTA. The subrecipient must follow its locally adopted process and must obtain a minimum of two appraisals in writing by qualified individuals to determine the fair market value of the equipment to be sold and concurrence must be received from the MTA.

As described in the preceding section, before disposing of a vehicle funded by FTA/MTA, the subrecipient must request and obtain a release of the lien and title from the MTA.

### Local Policy for Vehicles and Equipment Disposition

Subrecipients must have a written policy on property and equipment disposition. If the subrecipient is part of municipal government, local government disposition requirements must also be followed. Property disposition policies and procedures are generally considered a standard business practice for local governments. Counties are likely to have a county-wide process in place, and subrecipients that are part of county government are encouraged to use their local process. Non-profit organizations and private companies may need to develop a written policy on property and equipment disposition to meet MTA and FTA requirements. A sample disposition policy is provided as Attachment 6.E.

## Proceeds from Sale of a Vehicle

Proceeds from the sale of the vehicle must be added to the subrecipient's transportation budget, must be utilized for the transportation project, must not be considered local match in any future request for payment, and must be recorded. A sample Non-Fare Revenue Tracking Form (Vehicle/Equipment Proceeds Form) is provided as Attachment 6.F. The first \$100 of the proceeds can be retained to cover administrative expenses incurred.

- Equipment with a unit market value that exceeds \$5,000 requires reimbursement to FTA of the proportionate share of the fair market value or the net proceeds of the sale.
- Equipment with a unit market value of \$5,000 or less that has reached the end of its service life requires no FTA reimbursement. However, the MTA requires that upon completion of the sale, the subrecipient provide the sales receipt information and indicate on what capital item(s) they intend to spend the auction proceeds. These funds may be applied to the subrecipient's transportation capital budget but may not be used as local match in any future grant or request for payment. If the original purchase price was \$1,000 or more, MTA may request that the subrecipient remit back to MTA a proportional amount of the sale based upon the original grant ratio, deducting from this amount if necessary to ensure that the subrecipient retains at least \$100 from the proceeds to cover handling expenses.

## INSURANCE REQUIREMENTS

The following minimum insurance is required for each vehicle purchased or rehabilitated with Section 5310, JARC or New Freedom funds throughout the useful life of each vehicle (as described elsewhere in this chapter) and until the vehicle is no longer titled to the MTA. The subrecipient must provide the MTA with proof of insurance at the specified limits of coverage prior to receipt of a new vehicle as well as during the application process, and certify that minimum insurance requirements continue to be met on a quarterly basis. Note that proof of insurance is usually provided on the industry ACORD (Association for Cooperative Operations Research and Development) Certification of Insurance Form.

- Comprehensive Business Automobile Liability that covers all automobiles defined as motor vehicles, whether owned, non-owned leased, or hired, to a minimum combined single limit for Bodily Injury and Property Damage of \$1,000,000.

- Each organization must have collision insurance for protection of FTA's 80% financial interest in each vehicle. This would include Comprehensive and Collision or Upset Coverage on the vehicle.
- There must be Uninsured Motorist coverage for limits of liability of \$30,000 per person, and \$60,000 per accident.
- The Maryland Department of Transportation **must** be named an additional insured party on each insurance policy for all vehicles procured under the Section 5310 program.

**Important Note:** If any of your vehicles are subject to Federal or State commercial vehicle requirements (introduced later in this chapter under “Federal and State Requirements Related to Commercial Vehicles”), they may be subject to higher insurance requirements (beyond the authority of MTA).

## VEHICLE ACCIDENT PROCEDURES & REPORTING REQUIREMENTS

In the event of an accident involving a vehicle funded under Section 5310, JARC or New Freedom, certain Federal and State requirements must be followed. These procedures apply to all accidents, regardless of their severity.

### Accident Reporting

- Call your MTA representative to report the accident as soon as possible at (410) 767-3790.
- File a “Vehicle Accident Report” with the MTA. This report form is included at the end of this chapter. This report includes the vehicle identification, date and location of the accident, a description of the accident, damages and injury, estimated repair costs, estimated number of days the vehicle will be out of service, a copy of the police report, and a report on the status of your insurance claim.

### Repairing the Vehicle

If the vehicle has remaining service-life:

- Vehicles that have remaining service-life (as defined earlier in this chapter) must be repaired if the subrecipient's insurance company determines that it is cost effective to repair the vehicle.

All vehicle repair costs are the responsibility of the subrecipient, including monies for repairs not covered by insurance. The subrecipient must secure at least three written repair estimates, and then report in writing to the MTA

those estimates, the subrecipient's preference on which estimate to accept, and when the vehicle will be taken out of service for repair.

The subrecipient must receive MTA approval before proceeding with the repair. When the repairs are completed and the vehicle is back in service, the MTA is to be notified of the date when the vehicle was placed back in service. A copy of the paid, itemized bill is to be submitted to the MTA.

If the vehicle has no remaining service-life:

- Vehicles that have no remaining service-life, may be repaired, sold or otherwise disposed of as noted in the Disposition Section above.

The subrecipient must provide a written statement of its intentions, with documentation of the vehicle's "useful life" to the MTA. If the vehicle title has not already been signed over to the subrecipient, the MTA will do so.

A sample Vehicle Accident Program and Form is provided as Attachment 8.D (see Chapter 8).

## **Disposing of a "Total Loss" Vehicle**

If the insurance company determines the accident vehicle to be a total loss, the following applies.

If the vehicle has remaining service-life:

- Vehicles that have remaining service-life must be disposed of in accordance with Federal regulations. The subrecipient must notify the MTA of the insurance company's determination, the amount to be paid, and the intended disposition of the vehicle. MTA will review this information and release the vehicle title if appropriate.

When the insurance payout is accepted by the subrecipient for the totaled vehicle, the subrecipient must reinvest the funds in their transportation services and advise the MTA of how the funds will be reinvested in capital equipment.

If the totaled vehicle is not removed by the insurance company, the subrecipient must notify the MTA of what will be done with the vehicle. The vehicle may be kept for spare parts, sold or otherwise disposed of. If the vehicle is sold, any proceeds must be reinvested in the subrecipient's transportation capital program.

If the vehicle has no remaining service-life:

- Vehicles that have no remaining service-life may be disposed of as noted in the Disposition Section above. However, the subrecipient must provide a written statement of its intentions, with documentation of the vehicle's "useful life" to the MTA. If the vehicle title has not already been signed over to the subrecipient, the MTA will do so.

## FEDERAL AND STATE REQUIREMENTS RELATED TO COMMERCIAL VEHICLES

**Important Note:** The following requirements are not administered or enforced by FTA or MTA, and are only briefly introduced in this manual. For further information, subrecipients are advised to contact the appropriate Federal or State agency as indicated on page 6-18.

If your organization operates any of the following types of vehicles, that vehicle is considered a commercial motor vehicle under Federal and State law:

- designed or used to transport 16 or more passengers, including the driver,
- designed or used to transport 9-15 passengers (including the driver) for compensation, or
- has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 10,001 pounds or more, whichever is greater. **Note that most of the vehicles purchased by the MTA for subrecipients will meet this category. Please contact your 5310 Program Manager if you are unsure if a Section 5310 vehicle falls into this category.**

The full definition of commercial motor vehicle is found within 49 CFR part 390, § 390.5. The State of Maryland has adopted the US DOT definition by reference in COMAR 11.21.01.04.

Note that "for compensation" may vary depending upon how your transportation services are funded (since even indirect compensation for transportation services by or on behalf of a passenger may trigger applicability for some requirements). Examples of direct compensation could include transportation fees paid by passengers to go on a field trip, or Medicaid funding for Medicaid client trips.

If you are uncertain whether or not your agency's passenger vehicles are commercial motor vehicles, you should contact the Maryland State Highway Administration (SHA) Motor Carrier Division (if you operate entirely within Maryland) or the Federal Motor



Carrier Safety Administration (FMCSA) if you cross state lines. Contact information is provided on page 6-18.

**Note:** Qualifications for *drivers* of commercial vehicles are addressed in Chapter 8 of this manual.

See Attachment 8.A in Chapter 8 for a list of the FMCSA and Maryland Motor Carrier requirements that apply to organizations that operate commercial vehicles.

## **US DOT Number for Interstate Operations (i.e., Crossing State Lines)**

If you operate a commercial vehicle across state lines, this section applies to you.

Under USDOT/FMCSA regulations, motor carriers engaged in transporting goods or passengers “for compensation” across state lines are required to obtain a US DOT Number (also referred to as Operating Authority) and are subject to certain vehicle inspection requirements. Grant money may be sufficient to qualify FTA subrecipients as “for compensation” carriers, whether or not farebox revenue is collected. Subrecipients should contact the FMCSA if they are unsure if their transportation services are considered “for compensation” for the purposes of complying with FMCSA requirements.

Any small portion of a route that takes place in another state qualifies a service as interstate, even if pick-up and drop-off points are in Maryland, although there are some metropolitan commercial zone exceptions.

There are also specific insurance and safety requirements for interstate carriers depending upon the size of vehicles operated, and there may be additional requirements based on which state lines are crossed. Therefore, interstate operators need to contact the regulatory agency in each state where service is provided.

## **Maryland DOT Number for Intrastate (i.e., within Maryland) Operation**

If you operate a commercial vehicle within Maryland, this section applies to you.

Under Maryland law, private organizations that operate passenger transportation services in Maryland must display either a USDOT Number (as introduced above) or a Maryland DOT motor carrier identification number also obtained from the SHA's Motor Carrier Division on commercial vehicles.

## **Public Service Commission (PSC) Permit or Operating Authority**

If you transport passengers within Maryland and charge for this service, this section may apply to you.

Under Code of Maryland Administrative Regulations (COMAR) Title 20: Public Service Commission, Subtitle 95: Transportation, intrastate operators of any motor vehicle transporting passengers for hire must secure a permit from the PSC, referred to as Operating Authority on the PSC application form. "For hire" is not defined in the COMAR, but it is possible that private nonprofit organizations may be subject to PSC permit requirements if they operate on a regular schedule and fares are charged, or if they operate as a charter/contract carrier. (Note that local public transportation systems established by local governing bodies were exempted from the PSC permit requirement through the passage of SB 402 in 2011, which amended Article - Public Utilities in the Annotated Code of Maryland.)

Organizations which are required to register with the PSC are also subject to minimum insurance requirements depending in vehicle size, as well as annual PSC inspections

For information about the PSC requirements, including whether or not your transportation services would be considered "for hire," visit <http://www.psc.state.md.us/transportation/> or call the PSC Transportation Division at (410) 767-8000 or (800) 492-0474.

## **Maryland Preventive Maintenance (PM) Program**

If you operate a commercial vehicle in Maryland, this section may apply to you.

Under COMAR Title 11: Department of Transportation, Subtitle 22: Preventive Maintenance Program, certain commercial vehicles are subject to Maryland Preventive Maintenance (PM) Program. This program requires that commercial vehicles be systematically inspected, repaired, and maintained every 12 months or 25,000 miles, whichever occurs first. This requirement applies to:

- vehicles with a seating capacity for 16 or more passengers including the driver (as well as other types of commercial vehicles), and
- any bus designed and used to carry more than 10 people owned by the State of Maryland or any political subdivision, excluding those subject to school bus regulations.

The vehicle owner can perform the inspection, or may have someone else do the inspection. Meeting the requirements of the law is the responsibility of the vehicle owner (subrecipient).

The PM program includes documentation requirements, including carrying on the vehicle at all times a Maryland DOT-approved inspection form documenting the most recent inspection or certification that the vehicle is maintained under a preventive maintenance plan established by the Maryland DOT.

The laws and regulations covering the PM Program, as well as the required forms, can be downloaded through this web page:

[http://www.mdot.maryland.gov/newMDOT/Motor\\_Carrier/PM\\_Program.html](http://www.mdot.maryland.gov/newMDOT/Motor_Carrier/PM_Program.html)

The PM inspection form for passenger vehicles can be downloaded here:

<http://www.mdot.maryland.gov/Office%20of%20Maryland%20Motor%20Carrier%20Program/Documents/Passenger%20Bus%20Preventive%20Maintenance%20Report.pdf>

The PM Maintenance Standards for Multipurpose Passenger Vehicles and Passenger Buses (COMAR 11.22.03) can be found here:

[http://www.dsd.state.md.us/COMAR/subtitle\\_chapters/11\\_Chapters.aspx](http://www.dsd.state.md.us/COMAR/subtitle_chapters/11_Chapters.aspx)

The laws and regulations covering the PM Program are also found in the PM Handbook, which can be purchased from the Maryland Division of State Documents. To order a PM Handbook, call the Maryland Division of State Documents at 410-260-3876 or 1-800-633-9657. There is a charge for the PM Handbook. Order form: <http://www.dsd.state.md.us/PDF/InfoSheet.pdf>

For more information about Maryland PM Program requirements, contact the SHA Motor Carrier Division.

## **Contacts for More Information**

Maryland State Highway Administration (SHA) Motor Carrier Division  
1-800-543-4564  
410-582-5734  
[http://www.mdot.maryland.gov/newMDOT/Motor\\_Carrier/index.html](http://www.mdot.maryland.gov/newMDOT/Motor_Carrier/index.html)

Federal Motor Carrier Safety Administration (FMCSA)  
1-800-832-5660  
410-962-2889  
<http://www.fmcsa.dot.gov/>

Maryland Public Service Commission (PSC), Transportation Division  
1-800-492-0474  
410-767-8000  
<http://www.psc.state.md.us/transportation/>

See Attachment 8.A in Chapter 8 of this manual for more information and additional resources on FMCSA and Maryland Motor Carrier requirements that pertain to organizations that operate commercial passenger vehicles.

## SUMMARY

Under Chapter 6 of this manual, as a subrecipient of Section 5310 funding, you will be required to provide the following information, forms or programs:

- Annual Equipment/Vehicle Inventory if you receive any 5310 capital funds for equipment and/or vehicle(s). A sample Equipment/Vehicle Inventory is provided as Attachment 6.A.
- Preventative Maintenance (PM) Program if you receive 5310 capital funding for vehicle(s). A sample PM Program is provided as Attachment 6.B.
- Driver Pre-and-Post Trip Inspection Form if you receive 5310 capital funding for vehicle(s). A sample Pre-and-Post trip Inspection Form is provided as Attachment 6.C.
- Letter Requesting Lien Release/Notice of Intent to Sell an FTA-funded vehicle if you wish to dispose of a 5310 vehicle(s) you have received. A sample letter is provided as Attachment 6.D.
- Vehicle or Equipment Asset Disposal Policy if you have any 5310 funded equipment and/or vehicle(s). A sample Disposal Policy is provided as Attachment 6.E.
- Vehicle/Equipment Proceeds Form to track revenue received from the sale of 5310 funded vehicles and/or equipment. A sample Vehicle/Equipment Proceeds Form (Non-Fare Revenue Quarterly Reporting Form) is provided as Attachment 6.F.
- Vehicle Accident Program if you receive any 5310 vehicle(s). A sample Vehicle Accident Program and Accident/Incident Report Form is provided as Attachment 8.D (see Chapter 8).

## Section 5310 Program Application for FY 2016 and FY 2017

**Jurisdiction** \_\_\_\_\_  
**Organization** \_\_\_\_\_

## Form 6: VEHICLE INVENTORY

Indicate all vehicles currently owned by the applicant organization, as well as vehicles requested in **FY14/15** and funded in previous years that are currently on order, for your transportation program. Insert additional pages as needed.

[illegible]



**Please place this Maintenance Plan on your agency letterhead and have it signed by your human service official authorized to sign your grant agreements. Note, these are examples of elements to be included in the Maintenance Plan required for Section 5310 subrecipients, but should be adapted to meet the manufacturer's minimum requirements for your specific vehicles and equipment. Each agency may (and should) include their own maintenance rules and procedures .**

**Name of Agency**

5310 Fleet Maintenance Plan

**Date**

**Name of Agency Maintenance Plan****Revision History**

<b>Revision</b>	<b>Date</b>	<b>Description of Change</b>	<b>Superseded Document</b>
<b>Original</b>	(Insert Date )	<b>Original Release</b>	
<b>Revision 1</b>	(Insert Date)	<b>Revised to be consistent with: (provide reason for revision)</b>	<b>Original</b>
<b>Revision 2</b>	(Insert Date)	<b>Revised due to: (provide reason for revision)</b>	<b>Revision 1</b>

**Name of Organization:** \_\_\_\_\_

**Authorized By:** \_\_\_\_\_ **Date:** \_\_\_\_\_



## Maintenance Plan and Goals:

The (Name of System) mission is to provide safe, clean, reliable and comfortable transportation to our clients and customers. To achieve this, we will provide a maintenance plan that is based on preventive, scheduled maintenance rather than reactive or unscheduled maintenance.

The (Name of Agency) will follow the maintenance recommendations of our vehicle and equipment manufacturers in order to maintain a valid warranty, even if the vehicle or equipment is no longer under the manufacturer's warranty. This includes a graduated maintenance program based on the manufacturer's recommended maintenance intervals for climate and type of use for each individual vehicle we own.

The (Name of Agency) will include maintenance of ADA and accessibility equipment in our established maintenance program and not separately. This allows us to perform regular and frequent checks to keep the equipment in good working order and to promptly repair it when needed. If ADA and accessibility equipment is found to be inoperable, it will be removed from service at the end of shift and like equipment will be dispatched to accommodate persons with disabilities.

The (Name of Agency) will also include maintenance of security equipment and on-board technology, such as on-board cameras, mobile radios, mobile data terminals, AVL technology, and fareboxes (if appropriate).

The (Name of Agency) maintenance goals and objectives supports our mission statement with the following:

- **Goal:** Reduce overall maintenance costs and inconvenience to our clients/customers.
  - **Objective:** Maintain a comprehensive preventive maintenance and warranty recovery plan.
- **Goal:** Adhere to the vehicle and equipment manufacturer's maintenance recommendations.
  - **Objective:** Maintain a graduated maintenance program based on intervals recommended by the manufacturer in order to maintain a valid warranty.
- **Goal:** Provide ADA and accessibility equipment that is in good working order.

- **Objective:** Include ADA and accessibility equipment in all routine maintenance inspections including the driver's pre-trip inspection. Promptly remove inoperable equipment from service and dispatch like equipment to accommodate persons with disabilities.

## Maintenance Responsibilities and Scheduling:

Annually, staff of (Name of Agency) will meet to evaluate and assign maintenance responsibilities. Current responsibilities are attached to this plan. Each year a maintenance schedule will be established to meet the goals and objectives of this plan. Preventive Maintenance (PM) will be checked against the schedule and measured by use of Pre-Post-Trip Inspection Form and/or Driver Daily Trip Sheets which will be used to record mileage. All vehicles (including any 5310 funded vehicles) are checked daily by each driver during the preventative maintenance inspection and appropriate information is recorded in the drivers daily report book/sheet. The next oil change service mileage is attached to the vehicles for the next service due as a reminder to the driver to ensure oil changes are completed at the appropriate intervals (+ or – 10%) of the manufacturers' recommended mileage/time for oil changes. The Attachment to this Plan shows the (Name of Agency) PM mileage intervals it uses for each vehicle type operated.

## Pre- and Post-Trip Inspections

Pre- and Post-Trip Inspections are an important element of a PM program. It is (Name of Agency)'s policy that each vehicle be inspected by the driver each day before beginning passenger service and after parking at the end of each driver's work day.

## First Interval PM Checks (insert recommended mileage interval):

At *(manufacturers' recommended mileage)* miles vehicles are to have a multipoint check and fluids topped off, a lube job, and oil and filter change. A multipoint inspection includes:

- Check fluid levels and fill as needed including engine oil, brake fluid, window washing fluid, power steering, and transmission coolant reservoirs.
- Check battery strength and condition
- Body interior and exterior
- Brake system
- Steering and suspension
- Exhaust system
- Transmission and drive axle
- Lights, wiper blades, windshield
- Wheelchair lift mechanism

- Hoses and belts
- Tire tread and brake lining.

Tire replacement, rotation and other repairs are performed on an as needed basis.

Wheelchair lifts/ramps and wheelchair securement systems are serviced as needed, following equipment manufacturer guidelines.

### **Scheduled Maintenance Plan:**

Note: the following is an example of a scheduled maintenance plan for a van or small bus. Your agency should follow the manufacturer's recommendations for your agency's particular types of vehicles.

Every **15,000** miles, perform above checks/inspections and replace air filter, inspect brake system, engine cooling system and hoses, wires and steering linkage.

Every **30,000** miles perform above checks/inspections and inspect exhaust system, replace engine air filter, fuel filter and transmission fluid. Vehicles with over 60,000 miles that have never had a transmission flush should not have a transmission flush.

Every 45,000 miles flush cooling system.

Every 60,000 miles is the same as 30,000 mile checkup.

Every 75,000 miles is the same as the 45,000 miles checkup.

Every 90,000 miles is the same as the 30,000 miles checkup.

Every 100,000 miles inspect accessory belts, replace spark plugs and replace rear axles lubricant.

Every 105,000 miles is the same as the 45,000 miles check up.

Every 120,000 miles is the same as the 30,000 miles checkup.

### **Wheelchair Lift Maintenance Plan:**

Note: the following is an example of a scheduled maintenance plan for a specific type of lift. Your agency should follow the manufacturer's recommendations for the specific equipment installed on your vehicles.

Under normal operating condition (10 or less cycles per day), service at least every six months (1,750 cycles) and a thorough inspection should be performed at the time of services. If more than 10 cycles per day, services should be increased to the Maintenance schedule below.

Make sure lift pivots points remain clear and are cleaned prior to lubrication. Use penetrating oil on knuckle links (both sides), hinges, and torsion springs (both sides). Torsion rods need to be lubricated with dry lubricant. Lubrication should be performed every six months or sooner, depending on usage.

### **Scheduled Maintenance Listed by Cycles:**

#### **To be performed if 10 or less cycles per day:**

1. Overall Condition: Listen for abnormal noises as lift is operated (i.e. grinding or binding noises).
2. Control Pendant: Verify that control pendant is undamaged and cable connector is tight.
3. Threshold Warning System: Verify that the system properly detects objects in threshold areas and actuates an audible alarm.
4. Bridge plate Load Sensor: Verify that the sensor inhibits downward movement of the platform when a weight is present on the lowered bridge plate.

#### **To be performed at 150 cycles:**

1. Overall Condition: Same as above and inspect the underside of the vehicles to be certain that nothing is out of the ordinary.
2. Electrical Wiring: Inspect electrical wiring for frayed wires, loose connections, etc.
3. Vehicle Interlock: Place the vehicles in the non- interlock mode and verify that the lift does not operate.

4. Decals: Verify that lift decals are properly affixed, clearly visible, and legible. Replace if necessary.
5. Handrails: Verify that handrail fasteners are properly tightened.
6. Lift Mounting and Support Points: Verify that the vehicle mounting and support points are in proper order and free of damage. Verify that the mounting bolts are sufficiently tight and free of corrosion.
7. Main Lift Pivot: Be certain that the traveling frame pins are installed properly, free from damage, and locked into position.
8. Platform Pivot Points: Verify that the platform moves freely without binding and does not wobble. Check that the platform operates properly during lift functions without obstruction.
9. Bridge plate: Verify that the bridge plate operates without binding during lift functions. Verify that the bridge plate deploys fully as platform stops at floor level. Verify that the bridge plate rests flat against the base plate.
10. Inner Rollstop: Verify that the rollstop operates properly during lift functions without obstruction. Be certain that the inner rollstop deploys fully as the platform stops at the proper vehicle floor level.
11. Hydraulic Power Unit: Check and add fluid when it is at ground level. Verify that there are no hydraulic fluid leaks. Check that the backup pump manual release valve is snug. Verify that the manual backup pump operates properly. With the platform at ground level, be certain that the pump hydraulic fluid level is level is at required full level.

### **To be performed at 1,800 cycles:**

Same as above and the following: Cleaning and Lubricating: Clean lift with mild soap and water and wipe dry. Prevent rust by coating all surfaces with light weight oil. Spray penetrating oil where specified following the directions on container. Remove excess grease from surrounding areas.

### **To be performed at 3,600 cycles:**

Same as above and the following: Hydraulic Cylinder, Hoses, and Fittings: Check cylinder for evidence of leaks. Inspect hydraulic hoses for damage. Verify that all fittings are tightly secured.

### Other Vehicle Equipment:

The (Name of Agency) also has the following items of independently manufactured equipment (that is, equipment not made by the OEM) installed on its vehicles:

- List each item of equipment and its maintenance requirements
- Ex. Radios – to be inspected monthly
- Ex. Surveillance Cameras – to be inspected and serviced every 3 months
- Fare Boxes – to be inspected and serviced semi-annually

The (Name of Agency) will provide an updated Attachment to this Maintenance Plan showing all independently manufactured equipment and their respective maintenance schedules and will adhere to these schedules through the efforts of (Name of Agency's) in-house staff approved by the manufacturer or the use of manufacturer's approved outside vendors.

**Note, all vehicle maintenance records are to be kept by vehicle via hard copy in an individual vehicle file for the life of the vehicle. (Name of Agency) may keep electronic records as well and may utilize maintenance software as it deems appropriate.**

### Warranty:

The (Name of System) will check all repairs to ensure that manufacturer warranty will cover/not cover the cost of the repair. Any repairs covered directly by the manufacturer will be documented and kept in the vehicle maintenance file and labeled as warranty. Any warranty reimbursements received will be tracked and applied against other maintenance costs for the covered vehicle. All such information is to be kept in the vehicle maintenance file.

**Attachments: (Name of Agency) will attach copies of the following information which shall also become part of the (Name of Agency's) Fleet Maintenance Plan.**

- Attach a copy of Maintenance responsibilities
- Attach a copy of your organization's Table of Organization
- Attach a copy of your current PM schedule (mileage and/or time) by vehicle type. Note, you must have a separate interval for each vehicle type you operate which is based upon the manufacturer's recommended mileage and/or time intervals.

## ATTACHMENT 6.B

- Attach a copy of your current PM/Inspection/Service schedule for each type of independently manufactured item of equipment you own on or off of your vehicle fleet
- Attach an inventory (Form 6 from your most recent ATP) of all vehicles funded with FTA and/or MTA funds. At a minimum, include VIN #, your organization #, make/model of vehicle, manufacturers recommended mileage between oil changes, date put in-service, odometer reading, original cost of vehicle number of seats and wheelchair tie-downs, and general condition of vehicles (Excellent, Good, Fair, Poor).
- Attach an inventory (Form 6a from your most recent ATP) of all equipment funded with FTA and/or State funds that is on or off your vehicle fleet.
- Attach copies of all Preventive Maintenance forms and check lists, include Driver Daily Trip Sheets and Pre-and-Post Vehicle Trip Inspection forms.
- Attach a list (or copy) of all warranties for each vehicle you own.





<b>Name of Agency</b> Pre-Trip Vehicle Condition Report					
Driver:		Vehicle #		Date:	
Fuel Level					
Starting Mileage:					
Operations: <b>Check to indicate item has been checked and is OK</b>		Fuel Card		First Aid Kit	Reg. Card
Fire Extinguisher					
Explanation:					
<b>Under the Hood</b>		<b>Exterior</b>		<b>Interior</b>	
Oil Level		Tires		Steering	
Brake Fluid		Brakes		Service Lights	
P/S Fluid		Running Lights		Emergency Brake	
Radiator Fluid Level		Turn Signal & Flashers		Windshield Wipers	
Belts		Headlights		Seat Belts	
Battery Compartment		Tail Lights		Horn	
Engine Compartment		Brake Lights		Gauges/Lights	
Oil, Fuel, Water Leaks		Cleanliness		Heater/Defroster/AC	
<b>Wheelchair Area</b>		<b>Radio</b>		Emergency Reflectors	
Door		No Reception		Emergency Exit	
Lift Cycled		No Transmission		All Mirrors	
Area Debris Free		Loud & Clear		Dome Lights	
Tie Downs				Doors	
Vehicle Swept Out				Seats & Hand Rails	
Comments:					
Corrections Made:					
Driver Signature:			Operations Manager Signature:		

<b>Name of Agency</b>					<b>Post-Trip Vehicle Condition Report</b>				
Driver:			Vehicle #		Date:			Odometer	
Fuel Level			Fuel Gallons Purchased:						
<b>Operations: Check to indicate item has been checked and is OK</b>			Fuel Card		First Aid Kit		Reg. Card		Fire Extinguisher
Explanation:									
<b>Under the Hood</b>			<b>Exterior</b>			<b>Interior</b>			
Oil Level			Tires			Steering			
Brake Fluid			Brakes			Service Lights			
P/S Fluid			Running Lights			Emergency Brake			
Radiator Fluid Level			Turn Signals & Flashers			Windshield Wipers			
Belts			Headlights			Seat Belts			
Battery Compartment			Tail Lights			Horn			
Engine Compartment			Brake Lights			Gauges/Lights			
Oil, Fuel, Water Leaks			Cleanliness			Heater/Defroster/AC			
<b>Wheelchair Area</b>			<b>Radio</b>			Emergency Reflectors			
Door			No Reception			Emergency Exit			
Lift Cycled			No Transmission			All Mirrors			
Area Debris Free			Loud & Clear			Dome Lights			
Tie Downs						Doors			
Vehicle Swept Out						Seats & Hand Rails			
<b>Comments:</b>									
<b>Corrections Made:</b>									
<b>Driver Signature:</b>					<b>Operations Manager Signature:</b>				

SAMPLE LETTER OF INTENT TO DISPOSE OF A VEHICLE AND REQUEST THE  
LIEN RELEASE

Letter must be on Agency Letterhead and all information noted below must be supplied by the 5310 agency requesting the lien release and/or disposal.

Date  
MTA  
Address

Dear (provide Name of current MTA 5310 Program Manager):

The (Name of Agency) has operated the vehicles listed below since (provide year vehicle(s) were placed in service). This (or these) vehicle(s) exceeds their useful life criteria both in terms of mileage and years of service, and we are now requesting that the lien be released by the Maryland Transit Administration for each of the vehicles listed; **OR**

The (Name of agency) has operated the vehicle identified below since (provide year vehicle was placed in service). This vehicle is no longer operable due to (chose description that best applies: accident, loss, wear and tear, or systemic failure) even though it has remaining useful life based on (chose all that apply: mileage, years of service or both). We are now requesting that the lien be released by the Maryland Transit Administration for the vehicle listed below.

For each vehicle listed, the 5310 agency must provide the following information:

Vehicle Make and Model: For example Ford/Champion

Vehicle Model Year: From your vehicle registration

Vehicle Current Life Mileage: Remember to include mileage from odometer turning over

Vehicle VIN Number: Self-explanatory

Agency Fleet Identification Number: Self-explanatory

Vehicle Current Condition: This information needs to address the current mechanical and operability condition of the vehicle in sufficient detail for MTA to render a decision

In addition to requesting the vehicle lien release, (Name of agency) is also requesting MTA's permission to use (or dispose of) the vehicle as follows (chose those options that apply):

(Name of Agency) will continue to use the vehicle as a reserve back-up vehicle in its fleet until such time as it is no longer operable at which time, (Name of Agency), will dispose of the vehicle according to its adopted disposal procedures after prior notification to the MTA.

(Name of Agency) will continue to use the vehicle as an active vehicle in its fleet until such time as the vehicle is no longer operable at which time, (Name of Agency), will dispose of the vehicle according to its adopted disposal procedures after notification to the MTA.

## ATTACHMENT 6.D

Name of agency will no longer use the vehicle and will dispose of it according to its adopted vehicle disposal procedures. Any proceeds from the sale of the vehicle will be reinvested in Name of Agency's transportation program. If \$5,000 or more in proceeds are realized, Name of Agency will contact the MTA to determine how the \$5,000 will be utilized.

If you should need any additional information on this request, please contact (Name and Title) at phone number or email address.

Sincerely,

Name of Agency Official

Cc:

## ATTACHMENT 6.E

Place on agency letter head and have signed by agency official authorized to sign agency grant agreements.

### Name of Agency 5310 Disposition Policy

(Name of Agency) accepts the following useful life spans for vehicles and/or equipment it acquires with Federal (and/or State) 5310 funds and will work to ensure that these useful life criteria are met or exceeded:

- Vans and sedans; at least four years in service and accumulation of at least 150,000 miles.
- Small size light-duty buses (under 30 feet in length); at least six years in service and acumination of at least 200,000 miles.
- Medium size medium-duty buses (under 30 feet in length); at least eight years in service and acumination of at least 250,000 miles.
- Useful life for any equipment bought with Federal and/or State funds will be determined at the time of procurement with MTA approval. Name of Agency will abide by this useful life determination.

Under extraordinary circumstances, vehicles/equipment may be replaced prior to the end of their normal useful life and (Name of Agency) will provide detailed justification to the Maryland Transit Administration (MTA) under such circumstances.

Name of Agency will secure the MTA's approval prior to seeking the disposal of any 5310 funded vehicles and/or equipment and the (Name of Agency) will dispose of the property according to its internal disposal procedures noted below: (please inset here your agencies method for disposing of agency equipment or vehicle)

Any disposal proceeds exceeding \$5,000 received from the sale of any single 5310 funded vehicle or piece of equipment will be returned to the MTA/FTA in a proportional amount equal to the item's original funded shares.

Proceeds from the sale of any vehicles or equipment less than \$5,000 may be utilized in (Agency's Name) transportation budget toward the future purchase of vehicles or equipment. Disposal proceeds MAY NOT be used for local match for any subsequent grant.

The first \$100 of the proceeds may be retained to cover administrative expenses. Upon completion of the sale, (Name of Agency) will provide the MTA with sales receipt information and indicate what capital transportation item (vehicles or equipment) they intend to purchase with the remaining proceeds. (Name of Agency) agrees to return any unused sale proceeds to the MTA.

---

Name of Authorized Agency Official

---

Date



**Maryland Transit Administration**  
**Human Service Agency**  
**NON FARE REVENUE QUARTERLY REPORTING FORM**  
*blank form*

Name of grantee

Dates covered by report

Program Income				
Date	Transaction	Income	Expense	Balance
	Starting Balance			\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -

Capital Income				
Date	Transaction	Income	Expense	Balance
	Starting Balance			\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -

Submitted by (print)

Date

Submitted by (sign)





# Chapter 7 - Transportation Service Operations

## INTRODUCTION

If you have a Section 5310 vehicle, or receive Section 5310 funding to operate or maintain vehicles, this chapter applies to you. This chapter presents the following Federal and State requirements related to operating transportation services that are funded by the Section 5310 program:

- **Coordinated Operations** - Your Section 5310-funded project must be derived from a locally developed, coordinated public transit-human services transportation plan, and must coordinate to the maximum extent feasible with transportation services assisted by other Federal sources.
- **Charter Service Restrictions** - You are prohibited from using FTA-funded vehicles and facilities to provide charter services, and must contact MTA before engaging in any service revisions so MTA can determine if the revised services meet the charter definitions.
- **School Bus Restrictions** - You are prohibited from using FTA-funded vehicles and facilities to provide school bus service.
- **Monitoring Purchased Transportation Contracts** - If you contract for service operations in lieu of in-house operations, you are responsible for ensuring that the contractor complies with all Federal and State requirements related to the grant. As a reminder, the contract has to be procured in a Federally-compliant manner (see Chapter 4 for procurement requirements).
- **Fares** - If you plan or do charge a fee or fare for use of your transportation services, you are responsible for properly notifying your client base of the fares, applying the fares in an equitable manner and securely collecting and accounting for the fares collected.

Note that operating requirements related to non-discrimination (including compliance with Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act) are covered in Chapter 3 of this manual.

## COORDINATED OPERATIONS

### FTA Requirements Related to Coordinating Services

As described in Chapter 2 of this manual, projects funded under the Section 5310 program (as well as the prior JARC and New Freedom programs) must be derived from a “locally developed, coordinated public transit-human services transportation plan.”

Coordination is required at the planning level, but should not stop with the completion of the planning process. For the Section 5310 program, FTA requires that “private for-profit transportation providers are provided an opportunity to participate to the maximum extent feasible, and that the program provides for maximum feasible coordination of transportation services assisted under Section 5310 with transportation services assisted by other Federal sources.” Subrecipients meet this requirement when they submit their 5310 grant applications.

Coordination is therefore strongly encouraged at the operational level in order to use limited resources efficiently and effectively. Coordinated planning provides a foundation for coordinating service and is explained by the subrecipient as part of their 5310 application.

Among the criteria for evaluating applications for Section 5310 funding, 40% of the total score an application can receive is allocated to Coordination and Cooperation.

Appendix 7.A provides more information on transportation coordination.

## CHARTER SERVICE RESTRICTIONS

The use of FTA-funded vehicles and facilities to provide charter services is prohibited except under specific circumstances defined in FTA’s Charter Service rule, 49 CFR Part 604 (<http://edocket.access.gpo.gov/2008/pdf/08-86.pdf>). The purpose of the FTA Charter Service rule is to protect private bus operators from unfair competition from transportation operators who have access to Federal and State funds for purchasing buses and to Federal funds for their operation.

All applicants for FTA funding sign a Charter Service Agreement as part of the Certifications and Assurances in the grant application to MTA. The Certifications and Assurances become part of your Grant Agreement. Under the Charter Service Agreement, the applicant agrees that the applicant (as well as its subrecipients or third party contractors who use FTA-funded vehicles) will not provide charter services using equipment or facilities acquired with Federal transit assistance except in compliance with FTA charter regulations.

## What is Charter Service?

Charter service is defined as transportation provided by the subrecipient at the request of a third party for the exclusive use of a bus or van for a negotiated price. The third party pays for the use of the vehicle, and it collects any fares from the passengers. Charter service is not part of a subrecipient's regularly scheduled services, or it is offered for a limited time period. The third party determines the origin and destination of the charter trip as well as the schedule.

Transportation provided by the subrecipient to the public for events or functions that occur on an irregular basis or for a limited duration is also considered a charter when a premium fare is charged that is greater than the usual and customary fixed-route fare, and/or the service is paid for in whole or in part by a third party.

Charter service does not include demand responsive service to the individuals you normally serve.

Section 5310 capital or operating funding may not be used in the provision of charter services. Should a 5310 subrecipient intend to engage in any change in its services while receiving FTA/MTA funding or operating an FTA/MTA-funded vehicle, it must contact MTA before engaging in its revised services so MTA can determine if the revised services meet the charter definitions.

Appendix 7.B provides more information about FTA charter service regulations.

## SCHOOL BUS RESTRICTIONS

The use of FTA-funded vehicles and facilities to provide school transportation is prohibited by FTA's School Bus Operations regulations, 49 CFR Part 605 ([http://www.fta.dot.gov/legislation\\_law/12923\\_4440.html](http://www.fta.dot.gov/legislation_law/12923_4440.html)), with certain exceptions. The purpose of the FTA School Bus Operations regulations are to protect private school bus operators from unfair competition from transit operators who have access to Federal and State funds for purchasing buses, and to Federal funds for their operation.

All applicants for FTA funding sign a School Transportation Agreement as part of the Certifications and Assurances in the grant application to MTA. The Certifications and Assurances become part of your Grant Agreement. Under the School Transportation Agreement, the applicant agrees that the applicant (as well as its subrecipients or third party contractors who use FTA-funded vehicles) will not provide school transportation services using equipment or facilities acquired with Federal transit assistance.

## **What does FTA Consider School Bus Service?**

School bus operations are defined in the FTA regulations as transportation by bus exclusively for school students, personnel and equipment in school bus type vehicles.

The prohibition against school bus service applies to both transportation for home-to-school and transportation for school-sponsored activities or trips.

The FTA considers Head Start to be a social service program rather than a school program, and as such the prohibition against providing school bus service does not apply to transporting children who are participating in Head Start programs.

Section 5310 subrecipients may not use 5310 program funds or equipment to engage in school bus service of any kind. Call your MTA representative if you have any questions or refer to Appendix 7.C. In any case, you may not transport children to school services or functions without prior written MTA approval.

## **MONITORING PURCHASED TRANSPORTATION CONTRACTS FOR COMPLIANCE AND SERVICE QUALITY**

Subrecipients who contract for service operations in lieu of in-house operations are responsible for ensuring that the contractor complies with all Federal and State requirements related to the grant. Further, the contractor should be monitored to ensure that an acceptable quality of service is provided.

### **Compliance Monitoring**

Chapter 4 of this manual describes the clauses that must be included in third-party contracts using FTA funds. The subrecipient's responsibility does not stop at the inclusion of the clauses in the signed contract. You must take steps to monitor that they are doing what they agreed to do in the contract, including:

- providing services in a nondiscriminatory manner (as described in Chapter 3 of this manual).
- using your organization's vehicles (if part of the contract) only as allowed in the contract (e.g., not using FTA-funded equipment to operate charter or school bus service as described in Chapter 7 of this manual).
- maintaining your organization's vehicles (if part of the contract) to meet minimum preventive maintenance and safety standards (described in Chapter 6 of this manual).

- testing their safety-sensitive employees for drug use and alcohol misuse as would apply to your organization (as described in Chapter 8 of this manual).

## Quality Control

As discussed in Chapter 4, your contract should include quality control safeguards to ensure satisfactory performance of the contractor, with penalties if performance standards are not met. Setting minimum requirements for driver training and preventive maintenance is essential. Performance from a reliability standard should also be addressed. For example, incidents where the contractor exceeds an allowed window of lateness (such as more than 15 minutes late for a pickup) or where a scheduled trip is not delivered should result in a fee being deducted from the contractor's invoice.

For service operations contracts, it is important to establish customer complaint reporting and resolutions procedures. For example, you may want customers to direct their complaints initially to the contractor, and if they are not resolved to the customer's satisfaction by the contractor, the customer should then contact your agency. On the other hand, you may want customers to contact you directly so that you have a better indication of the kinds of problems your customers are experiencing. However, this approach is likely to involve more staff time in your agency.

If the contractor collects fares, you will need to require adequate cash handling procedures and documentation to ensure that all fares collected are credited to your program.

As a recommended practice, your organization may wish to conduct spot checks on your vehicles on a periodic, unannounced basis. Note that MTA also conducts spot checks at any time to ensure that FTA/MTA-funded vehicles are well-maintained and used for their intended purpose.

**SUMMARY**

Under Chapter 7 of this manual, as a subrecipient of Section 5310 funding, you will be required to provide the following information, forms or programs:

- A locally developed coordinated human services transportation plan. This plan will be submitted with your grant application.
- A certification that the subrecipient will not engage in charter services. This certification is provided as part of the grant application/agreement process.
- A certification that the subrecipient will not engage in school transportation services. This certification is provided as part of the grant application/agreement process.

# Chapter 8 - Safety and Training

## INTRODUCTION

This chapter presents guidelines and requirements focused on ensuring the safety of the passengers in your vehicles, and is organized into the following sections:

- FMCSA and Maryland Motor Carrier Requirements
- Driver Qualifications required under FMCSA
- Training
- Drug Free Workplace
- Drug & Alcohol Program Requirements
- Other Policies for Safe Operations
- Security
- Emergency Preparedness

## FMCSA AND MARYLAND MOTOR CARRIER REQUIREMENTS

There are numerous requirements for transportation providers that operate commercial vehicles. These include requirements related to driver qualifications, and employers are responsible to ensure their employees meet these requirements. The commercial vehicle and commercial driver requirements are under the purview of the Federal Motor Carrier Safety Administration (FMCSA), the Maryland Motor Carrier Division of the Maryland State Highway Administration (SHA), the Maryland Public Service Commission (PSC), and the Motor Vehicle Administration (MVA), and enforced by the Maryland State Police, not FTA or MTA.

If your organization operates any of the following types of vehicles, that vehicle is considered a commercial motor vehicle under Federal and State law:

- designed or used to transport 16 or more passengers, including the driver,
- designed or used to transport 9-15 passengers (including the driver) for compensation, or
- has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 10,001 pounds or more, whichever is greater.

The full definition of commercial motor vehicle is found within 49 CFR part 390, § 390.5. The State of Maryland has adopted the US DOT definition by reference in COMAR 11.21.01.04.

Attachment 8.A summarizes the FMCSA requirements that may apply to your organization as an operator of commercial vehicles and as an employer of drivers who operate these vehicles.

The extent to which certain FMCSA requirements apply may vary depending upon whether or not your vehicles cross state lines and how the transportation services are funded (since even indirect compensation for transportation services by or on behalf of a passenger may trigger applicability).

While many of the Federal Motor Carrier Safety Regulations (FMCSR) requirements for drivers are introduced in this chapter and listed in Attachment 8.A, this manual only provides a brief summary of these requirements, which are not under the purview of the MTA. Note that the FMCSR requirements regarding the commercial vehicles themselves are introduced in Chapter 6 of this manual.

For complete regulations and guidance, and to determine whether or not your agency's passenger vehicles are commercial motor vehicles, subrecipients are also urged to contact the Federal Motor Carrier Safety Administration (FMCSA) at 1-800-832-5660 or (410) 962-2889.

## **DRIVER QUALIFICATIONS**

### **Commercial Driver's License**

Under Federal and State regulations, a valid Commercial Driver's License (CDL) is required to drive a commercial motor vehicle that is designed or used to transport 16 or more passengers, including the driver.<sup>1</sup>

The Federal CDL requirements are detailed in 49 CFR Part 383. For information on CDL requirements in Maryland, contact the Maryland Motor Vehicle Administration at 1-

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<sup>1</sup> Based on the target audience for this manual, passenger vehicles seating 16 or more is the applicable type of vehicle (Class C). However, a CDL is required to drive any of the following:

- Class A -- Any combination of vehicles with a GCWR of 26,001 or more pounds provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.
- Class B -- Any single vehicle with a GVWR of 26,001 or more pounds, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR.
- Class C -- Any single vehicle, or combination of vehicles, that does not meet the definition of Class A or Class B, but is either designed to transport 16 or more passengers, including the driver, or is transporting material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR Part 172 or is transporting any quantity of a material listed as a select agent or toxin in 42 CFR Part 73.



800-950-1MVA (1-800-950-1682) or 301-729-4550. Maryland CDL information and forms are also available online at <http://www.mva.maryland.gov/Driver-Services/Apply/CDL/commercial.htm>. As an employer, you are responsible for verifying that an employee has a valid CDL before they operate a vehicle for which a CDL is required. Additionally, employers who employ drivers with CDLs are responsible for verifying that their drivers meet minimum U.S. DOT physical qualifications before operating a commercial motor vehicle, as regulated under 49 CFR Part 391 and briefly summarized in the next section of this chapter.

Even if your organization is not required to conduct checks of driver CDLs prior to hiring drivers, as a “best practice,” subrecipients should check to ensure that all new hires have valid driver’s licenses (and CDLs if your organization has vehicles designed to transport 16 or more passengers including the driver).

## US DOT Physical for Drivers of Commercial Vehicles

Every two years, the drivers of the following commercial vehicles must pass a physical examination with certain requirements specified by the FMCSR in 49 CFR Part 391, Subpart E, and incorporated into the Maryland Motor Carrier Regulations:

- all drivers of vehicles for which a CDL is required,
- all drivers of vehicles designed or used to transport 9-15 passengers (including the driver) across state lines (interstate) for direct compensation, and
- **all non-commercial drivers of commercial motor vehicles weighing 10,001 and up to 26,000 pounds must pass the DOT physical**, even if they only operate entirely within Maryland (intrastate service). Note that this weight range includes many body-on-chassis/cutaway type vehicles designed to seat 9-15 passengers.

The physical qualifications are detailed in 49 CFR Part 391, Subpart E. A DOT physical certification is issued upon passing the physical; this document must be carried by the CDL holder while operating a commercial vehicle. Section 5310 subrecipients who employ drivers required to have CDLs are responsible for verifying that their drivers meet the minimum physical qualifications before operating a commercial motor vehicle and should track renewal needs for these documents and ensure that drivers renew them on a timely basis. For more information, refer to the Federal Motor Carrier Safety Administration (FMCSA) (1-800-832-5660, <http://www.fmcsa.dot.gov/>)

Even if your organization is not required to ensure drivers meet DOT physical qualifications, as a “best practice,” subrecipients should be prepared to check and

ensure all employees who transport clients or the public have DOT physical certifications.

## **Pre-Employment Checks**

### ***Background Checks***

Hiring qualified individuals is an important first step in ensuring safe operations. All applicants for driving and other safety-sensitive positions should be subject to background driving record and criminal record checks. If applicable, out-of-state records should also be checked. Any available safety, accident, and if necessary, criminal records should be investigated. If you employ drivers of commercial vehicles, under 49 CFR Part 391 Subpart C, you must conduct specific background investigations of job applicants, including: checking the driving records from the past three years; investigating the driver's safety performance history with US DOT regulated employers during the preceding three years, including accidents; and checking any 49 CFR Part 382 drug and alcohol violations.

Even if your organization does not have commercial motor vehicles, as a “best practice,” subrecipients should be prepared and actually employ background checks of new employees who transport clients or the public.

### ***Road Test***

Under 49 CFR Part 391 Subpart C, employers of drivers of commercial motor vehicles must administer a road test as part of the application process. Even if your organization does not operate commercial vehicles, as a “best practice,” subrecipients should be prepared and actually employ road tests of potential new employees who could transport clients or the public.

### ***Pre-Employment Drug Testing***

If your organization, as an employer, is subject to U.S. DOT drug and alcohol program requirements (discussed later in this chapter), individuals applying for safety-sensitive positions that fall under the drug and alcohol program requirements must test negatively on a pre-employment drug test. More on these requirements are addressed later in this section under “Requirements Related to Drug and Alcohol Testing.”

## Maximum Driving Time for Drivers of Commercial Motor Vehicles

Under the FMSCA regulations (49 CFR Part 395), operators of commercial motor vehicles<sup>2</sup> are subject to limitations on their driving hours and must document their hours. Such drivers may not be behind the wheel more than 10 hours following at least 8 hours off, with additional restrictions on hours per week based on days per week. They must also maintain a record of their duty status. These and other requirements are detailed in 49 CFR Part 395, which can be found on the FMCSA website through: <http://www.fmcsa.dot.gov/rules/regulations/administration/fmcsr/FmcsrGuideDetails.aspx?menukey=395>

## TRAINING

The MTA recommends that all subrecipients that operate transportation services develop and implement both initial training and continuous learning programs for their drivers and driver supervisors. A well-trained staff is an indispensable asset to any organization as it helps to foster an effective and quality-driven work environment.

### Driver Training

At a minimum, the following topics are recommended for new drivers before being placed in service transporting passengers:

- Defensive Driving
- Vehicle Orientation for each type of vehicle used
- Pre-and Post-Trip Inspections
- Passenger Assistance, including use of lift and wheelchair securement (as required by the ADA)
- Sensitivity towards Persons with Disabilities (as required by the ADA)
- Drug and Alcohol Awareness (2 hours are required for employees who operate or maintain vehicles requiring a CDL as well as those who supervise these employees)
- Standard Operating Policies and Procedures, such as:
  - Recordkeeping

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<sup>2</sup> Including those seating 16 passengers or more including the driver, as well as those travel across state lines for direct compensation that either seat 9 or more passengers including the driver or has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 10,001 pounds or more, as defined in 49 CFR Part 390, § 390.5.

- Communications
- Emergency Procedures:
  - Accidents/Incidents
  - CPR/First Aid (required by some Health and Human Service funding sources)
  - Blood Borne Pathogens Awareness/Bodily Fluid Clean-Up
  - Fire Life Safety
  - Vehicle Evacuation
  - Emergency Communications
- Additional training may be appropriate, depending upon your services, customers, and driver responsibilities:
  - Map Reading Skills
  - Behavior Management
  - Fare Collection / Cash Handling
  - CDL Test Preparation
  - Preventive Maintenance

Training should not be limited to newly hired drivers. Veteran drivers can benefit from periodic “refresher” training to help improve and maintain safe driving skills. Recommended refresher training includes:

- remedial training following an accident or incident at which the driver was at fault
- defensive driving focused on seasonal driving hazards (e.g., winter weather)
- training on new policies, procedures, or Federal/State regulations

Training can be conducted in-house or off-site and can be in coordination with another agency. The Locally Operated Transit System (LOTS) in your county may have a trainer on staff who can assist other community organizations with their driver training.

It is recommended that each subrecipient develop a checklist of training topics that documents the number of hours spent in training for each employee. The checklist should have both the trainer and the trainee sign off verifying participation or completion of each topic area.

Subrecipients of 5310 funding will, in most cases, be required to conduct driver training meeting the requirements above and maintain a written Driver Training Program. Sources for developing a driver training program include:

- National RTAP's START Safety Training and Rural Transit program, which provides modules on Vehicle Safety, Driver/Operator Safety, and Passenger Safety - [www.nationalrtap.org](http://www.nationalrtap.org)
- CTAA's Passenger Service and Safety (PASS) Trainer and Driver Certification program - [www.ctaa.org](http://www.ctaa.org)
- National Safety Council's Defensive Driving products and courses - <http://www.nsc.org/learn/Safety-Training/Pages/defensive-driving-driver-safety-training.aspx>.

## **Transportation Association of Maryland**

The Transportation Association of Maryland (TAM) hosts an annual conference that offers professional development workshops and peer-to-peer networking opportunities. All MTA subrecipients are encouraged to attend, share their expertise with others, and be involved in the TAM organization, to enhance the excellence of their organization as well as across Maryland. Information about the TAM conference is available on the TAM website at [http:// aminc.org/t /](http://aminc.org/t/). All Section 5310 subrecipients are encouraged to attend TAM events and become a member.

## **MTA-Sponsored Training**

The MTA sponsors periodic training workshops for MTA subrecipients. While these sessions are often geared toward the LOTS, typically other subrecipients may attend these sessions on a space-available basis. This training is funded by the Rural Transit Assistance Program (RTAP), Section 5311(b)(2).

MTA/RTAP training is usually offered in conjunction with the annual TAM conference as well as at other times throughout the year. Also, Maryland participates in the Mid-Atlantic RTAP consortium, and training opportunities offered through the RTAP programs in neighboring states are often open to Maryland transportation providers as well. Information about upcoming RTAP-sponsored training is posted on the TAM website (<http://taminc.org/>).

## DRUG FREE WORKPLACE

Note: The Drug-Free Workplace requirement described in this section is a Federal requirement that is separate from the Drug and Alcohol Program requirements described in the next section.

In accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.), and 49 CFR part 32, each FTA grant recipient is required to maintain a drug-free workplace for all employees and to have an anti-drug policy and awareness program. MTA extends these requirements to all FTA subrecipients, and all applicants for Section 5310 funding must agree that it will provide a drug-free workplace and comply with all requirements of 49 CFR Part 32. These requirements include:

- Employers must publish and disseminate a policy statement informing their employees that it is unlawful to manufacture, distribute, dispense, possess, or use a controlled substance that is prohibited in the workplace and state specific actions that will be taken for violations.
- Employers must establish an ongoing drug-free awareness program including informing employees of:
  - the dangers of drug abuse in the workplace
  - its policy of maintaining a drug-free workplace
  - any available drug counseling, rehabilitation, and employee assistance programs
  - the penalties that may be imposed upon its employees for drug abuse violations occurring in the workplace.
- Employees must be informed as a condition of their employment that they have to abide by the policy, including notifying their employer of a drug conviction within five calendar days of the conviction.
- Employers must notify the MTA/FTA of an employee's drug conviction within 10 calendar days after receiving notice from the employee.
- Employers must provide notice, including position title, to every project officer or other designee on whose project activity the convicted employee was working. This notice must include the identification number(s) of each affected grant or cooperative agreement.
- Employers must impose a penalty on an employee, which could include termination, or require participation in a drug abuse assistance program for convicted employees within 30 calendar days of receiving notice of the conviction.

- Employers must “make an on-going, good faith effort to maintain a drug free workplace by meeting the requirements of the Act.” It is important to note that the preceding is merely a basic outline of the government’s requirements.

Subrecipients of 5310 funding are required to develop, maintain and actively enforce a written Drug Free Workplace Policy meeting the requirements above. A sample Drug Free Workplace Policy is provided as Attachment 8.B.

## DRUG AND ALCOHOL PROGRAM REQUIREMENTS

The U.S. DOT established drug and alcohol program requirements to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances (drugs) by drivers of commercial motor vehicles and in FTA-funded public transit services.

Note: Subrecipients may be subject to either the general US DOT Drug and Alcohol Program requirements, or the more rigorous FTA Drug and Alcohol Program requirements, as will be discussed next. It should also be noted that Drug and Alcohol Program requirements should not be confused with the Drug-Free Workplace requirement described in the preceding section.

### Which Federal Regulations Apply?

There are two sets of USDOT regulations related to drug and alcohol testing and training, and Section 5310 subrecipients may be required to follow one of them.

- **If your organization receives *only* Section 5310 funds but no other FTA funds, and you employ drivers (including volunteers) with CDLs, you must comply with:**
  - **Federal Motor Carrier Safety Administration (FMCSA) regulations (49 CFR Part 382, as amended),** *Controlled Substances and Alcohol Use and Testing* includes required substance abuse programs and procedures that apply to employees that operate commercial motor vehicles.
  - **US DOT regulations (49 CFR Part 40, as amended),** *Procedures for Transportation Workplace Drug and Alcohol Testing Programs* prescribes the testing methods that apply to testing procedures for all US DOT covered employees.
- **If your organization receives funding under FTA Section 5307, 5309, 5311, or 5339, in addition to Section 5310, then you are required to comply with the more rigorous FTA Drug and Alcohol program requirements (49 CFR Part 655 -**

Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations, which are also subject to 49 CFR Part 40). The FTA Drug and Alcohol program requirements are not described in this manual, but can be found in the Maryland LOTS Manual.

- **If your organization receives *only* Section 5310 funds and no other FTA funds, and you do *not* employ drivers (including volunteers) with CDLs, your organization is not subject to USDOT drug and alcohol program requirements.**

## **If You Are Subject to FMCSA Drug and Alcohol Programs Requirements**

FMCSA requirements are outside of the purview of FTA or MTA, and thus these requirements are not included in this manual. FMCSA oversees compliance with the FMCSA drug and alcohol requirements for interstate commercial transportation operations, while the Maryland State Police Commercial Vehicle Division is responsible for oversight of compliance by transportation providers who operate within the State of Maryland (intrastate operations).

Section 5310 subrecipients with CDL drivers are advised to consult FMCSA rules and guidance (online at <http://www.fmcsa.dot.gov/regulations/drug-alcohol-testing/overview-drug-and-alcohol-rules>).

Additional guidance on the FMCSA requirements can be obtained from:

- FMCSA Maryland Division, City Crescent Building, 10 S. Howard Street, Suite 2710, Baltimore, MD 21201, phone: (410) 962-2889
- FMCSA Office of Drug & Alcohol Policy & Compliance national office, toll-free at 800-225-3784 or by email: [ODAPCWebMail@dot.gov](mailto:ODAPCWebMail@dot.gov).

## **OTHER POLICIES FOR SAFE OPERATIONS**

### **Driver Pre-trip Inspections**

Daily inspection of vehicles by drivers prior to putting vehicles into service is an important element of safe operations. Inspections at the end of the service day (post-trip) are also recommended.



Drivers must be trained in how to conduct these inspections and be required to complete inspection forms appropriate for their vehicle. If the vehicle is equipped with a wheelchair lift, the pre-trip inspection must include cycling of the lift as required by the Americans with Disabilities Act.

All Section 5310 subrecipients must provide a pre-trip inspection form. A sample pre-trip form is provided in Section 6 as Attachment 6.C.

Any deficiencies noted during the inspection should be reported, and as such the pre-trip inspection is the first step in the repair process. If a driver finds a significant deficiency during the inspection (such as a headlight or brake light out, or an inoperative wheelchair lift), the deficiency must be repaired before the vehicle is placed into service.

### ***Driver Inspection Requirement under FMCSA***

If your transportation services are subject to FMCSA requirements for commercial motor vehicles<sup>3</sup>, under 49 CFR Part 396, § 396.11, drivers of these vehicles are required to conduct a safety inspection and prepare and submit a written inspection report at the end of each day. For passenger vans and small buses, this report must cover at least the following parts and accessories: brakes (service and parking), steering, lights, reflectors, tires, horn, windshield wipers, rear vision mirrors, and emergency equipment.

The next driver is responsible for reviewing the last form submitted. If defects or deficiencies are noted on the previous inspection form, the next driver is responsible for signing the report to acknowledge that he/she has reviewed it and that there is a certification that the required repairs have been performed. Attachment 6.C can be used for this purpose.

### **Cell Phone/Portable Electronic Device Policy**

Maryland law prohibits all Maryland drivers from:

- using a cell phone without a hands-free device while operating a motor vehicle, and
- using a text messaging device to write or send a text message while operating a motor vehicle in motion or in the travel portion of the roadway with some

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<sup>3</sup> Including those seating 16 passengers or more including the driver, as well as those travel across state lines for direct compensation that either seat 9 or more passengers including the driver or has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 10,001 pounds or more, as defined in 49 CFR Part 390, § 390.5.

exceptions such as the use of a global positioning system, or text messaging to contact a 9-1-1 system.

All subrecipients are required to establish an employment policy regarding the safe use of cell phones and other portable electronic devices for employees of your program.

A sample policy is provided as Attachment 8.C.

Applicants for Section 5310 funding must submit a copy of their policy as part of the application.

## **Accident/Incident Procedures**

Your agency should establish policies and procedures for accidents and incidents, including:

- reporting and record-keeping requirements,
- communications protocol,
- interfacing with the police, the other involved parties, and insurance companies,
- internal investigation procedures/preventability determination,
- disciplinary actions, including an appeals process, and
- retraining policies.

**The following types of accidents and incidents must be reported to MTA as soon as possible after the occurrence** and must also be included with the subrecipient's quarterly report to the MTA:

**Reportable Incident** - a safety or security incident occurring on transit property or otherwise affecting revenue service that results in one or more of the following conditions: a fatality confirmed within 30 days of the incident, an injury requiring immediate medical attention away from the scene for one or more persons, property damage equal to or exceeding \$25,000, and/or an evacuation for life safety reasons.

**Fatality** - a death or suicide confirmed within 30 days of a reported incident; does not include deaths in or on transit property that are a result of illness or other natural causes.

**Injury** - any physical damage or harm to persons as a result of an incident that requires immediate medical attention away from the scene.

A sample Accident Program and Accident/Incident Report Form is provided as Attachment 8.D.

## **Policies and Procedures for Picking Up and Dropping Off Passengers**

Policies should be established for, and drivers should be training in, selecting safe locations for picking up and discharging passengers (if fixed stops have not been established) so that neither the vehicle nor the passenger is put at risk of a potential accident, passenger assistance (ergonomic to the driver as well as in compliance with ADA requirements related to this), and securing the vehicle and passengers on-board if the driver needs to leave to assist a passenger to or from the door.

A sample Passenger Pick-Up and Drop-Off Policy is provided as Attachment 8.E.

## **SECURITY**

Even in the smallest community, the security of your passengers, employees, vehicles, facilities, finances, and information should be a concern to your organization. While there are no FTA requirements regarding security for subrecipients of Section 5310, JARC and New Freedom that do not receive other FTA funds, all subrecipients are encouraged to institute basic security precautions such as:

- instructing drivers to check for unusual items during vehicle pre- and post-trip inspections.
- establish procedures for shutting down and securing vehicles during driver breaks.
- maintaining vehicle keys in a secure location and requiring key check-outs by drivers.
- storing vehicles in a secure location overnight and during days when not in use.
- ensuring drivers have mobile communications equipment (two-way radio or cell phone) on each vehicle.
- limiting cash handling requirements for drivers. If cash fares are charged or on-board donations accepted for your transportation services, a locked farebox should be installed on your vehicle(s) and emptied each night in a secure, monitored location. Cash should be stored in a locked location, two persons should be present to count cash and record the amount, and bank deposits should be made frequently. Please see Chapter 7 for fare requirements.

- maintaining confidential paper files in a locked file cabinet and secured office.
- minimizing the risk of computer security breaches with passwords, secure internet connections, firewalls, frequent backing up of data to a secure location, etc.

## EMERGENCY PREPAREDNESS

It is recommended that all subrecipients develop an emergency response plan for:

- accidents/incidents
- medical emergencies (of passengers and drivers)
- severe weather operations
- vehicle fire

If appropriate for your community and organization, other emergency response plans should address bomb threats, hazardous materials, industrial accidents, chemical or biological threats, and other potential natural disasters or terrorist actions. If feasible, getting input from community first responders, including police, fire, and emergency medical services is critical to establishing an emergency response plan.

Recommended resources for emergency preparedness of specialized transportation providers include:

- The National Rural Transit Assistance Program (RTAP) ([www.nationalrtap.org](http://www.nationalrtap.org)):
  - *Emergency Procedures for Rural Transit Drivers*
  - *Safety Training and Rural Transit (START)*
- U.S. DOT Departmental Guidelines on Emergency Preparedness and Individuals with Disabilities: <https://www.civilrights.dot.gov/civil-rights-awareness-enforcement/accessibility/departmental-guidelines-emergency-preparedness-and>

## SUMMARY

Under Chapter 8 of this manual, as a subrecipient of Section 5310 funding, you will be required to provide the following information, forms or programs:

- Documentation of compliance with all applicable Federal or State requirements pertaining to operation of commercial vehicles and employing drivers with CDLs, as introduced in Attachment 8.A. Note that while these may not reflect FTA or 5310 requirements, subrecipients may be required to demonstrate compliance by the Maryland State Police, SHA/Maryland Motor Carrier, Maryland Public Service Commission, and/or FMCSA.
- A driver training program. Model programs include those offered through the National RTAP, CTAA, and the National Safety Council.
- A written Drug-Free Workplace Policy. A sample Drug-Free Workplace Policy is provided as Attachment 8.B.
- Section 5310 subrecipients that also receive funding under FTA Section 5307, 5309/5339, 5311, or the former 5316 are required to have an FTA-compliant Drug and Alcohol Testing Program, as detailed in the Maryland LOTS Manual. Other 5310 subrecipients that operate vehicles requiring a CDL to operate must have a FMCSA-compliant Drug and Alcohol Testing Program.
- A written Cell Phone Policy. A sample Cell Phone Policy is provided as Attachment 8.C.
- A Driver Pre-and-Post Trip Inspection Form if you receive 5310 Capital funding for vehicle(s). A sample Pre-and-Post trip Inspection Form is provided as Attachment 6.C (See Chapter 6).
- A Vehicle Accident Program if you receive any 5310 vehicle(s). A sample Vehicle Accident Program and Accident/Incident Report Form is provided as Attachment 8.D.
- As a best practice, subrecipients that operate 5310 vehicles or receive 5310 funding for operations should develop a Passenger Pick-Up and Drop-Off Policy. A sample Passenger Pick-Up and Drop-Off Policy is provided as Attachment 8.E.



## Selected FMCSA and Maryland Motor Carrier Requirements that May Apply to Your Organization

The information in the following table is provided by MTA as technical assistance to Maryland's Section 5310 subrecipients. These requirements are under the purview of the Federal Motor Carrier Safety Administration (FMCSA), the Maryland Motor Carrier Division of the Maryland State Highway Administration (SHA), the Maryland Public Service Commission (PSC), and the Motor Vehicle Administration (MVA), and enforced by the Maryland State Police, not FTA or MTA. These requirements are not imposed through the Section 5310 program. However, MTA advises Section 5310 subrecipients that they have a responsibility to learn the FMCSA, Maryland Motor Carrier, MVA, and PSC requirements that may apply to their particular operations and vehicles. The requirements introduced below are not exhaustive, and organizations with commercial vehicles should contact the Maryland SHA Motor Carrier Division and/or the FMCSA to obtain guidance:

If your transportation services operate entirely within the State of Maryland	If your transportation services cross state lines
Maryland State Highway Administration (SHA), Motor Carrier Division 1-800-543-4564 or 410-582-5734 <a href="http://www.mdot.maryland.gov/newMDOT/Motor_Carrier/index.html">http://www.mdot.maryland.gov/newMDOT/Motor_Carrier/index.html</a>	Federal Motor Carrier Safety Administration (FMCSA) 1-800-832-5660 or 410-962-2889 <a href="http://www.fmcsa.dot.gov/">http://www.fmcsa.dot.gov/</a>

***Disclaimer: The following information, provided as a technical assistance courtesy, was compiled based on the careful review of the FMCSA and Maryland Motor Carrier/MVA/PSC regulations as of July 2016, as well as FMCSA and Maryland Motor Carrier Division technical assistance resources. This information should only be used as an introduction, and the extent to which each requirement may apply to your organization will depend on the specific circumstances of your organization, transportation funding sources, vehicles, and operating characteristics. The MTA advises its Section 5310 subrecipients to contact the Maryland Motor Carrier Division directly to obtain complete and up-to-date information and to determine applicability to your organization's transportation program.***

### Selected FMCSA and Maryland Motor Carrier Requirements that May Apply to Your Organization

Requirement	Vehicles with GVWR over 10,000 lbs	Vehicles designed to seat 9 – 15 including the driver	Vehicles designed to seat 16 or more including the driver
<b>Operating Authority/ US DOT Number if interstate or MD DOT Number if intrastate only</b> – organization must have (49 CFR Part 365)	Yes	Yes if operating for compensation ( <i>direct or indirect – includes grant funding for transportation</i> ) or over 10,000 lbs GVWR	Yes
<b>Commercial Driver's License</b> – driver must have, employer must verify (49 CFR Part 383)	Only if GVWR exceeds 26,000 lbs	Only if GVWR exceeds 26,000 lbs	Yes
<b>US DOT Physical</b> – driver must have, employer must verify (49 CFR Part 391)	Yes	Only if operating for direct compensation, or over 10,000 lbs GVWR	Yes
<b>Pre-Employment Checks for Drivers</b> – employer must conduct <ul style="list-style-type: none"> <li>• Background checks</li> <li>• Road test</li> </ul> (49 CFR Part 391)	Yes	Only if operating for direct compensation, or over 10,000 lbs GVWR	Yes
<b>Drug &amp; Alcohol Testing Program</b> – employer must conduct pre-employment, post-accident, random, reasonable cause, and return-to-duty testing (49 CFR Parts 40 and 382*)	Only for CDL drivers (if GVWR exceeds 26,000 lbs)	Only for CDL drivers (if GVWR exceeds 26,000 lbs)	Yes



Requirement	Vehicles with GVWR over 10,000 lbs	Vehicles designed to seat 9 – 15 including the driver	Vehicles designed to seat 16 or more including the driver
<b>Driver Training –</b> drivers with under 1 year of operating a CDL vehicle in interstate commerce must have entry-level driver training (49 CFR Part 380)	Only if GVWR exceeds 26,000 lbs and crossing state lines	Only if GVWR exceeds 26,000 lbs and crossing state lines	Only if crossing state lines
<b>Maximum Driving Time for Drivers of Commercial Vehicles</b> (49 CFR Part 395)	Yes	Only if operating for direct compensation, or over 10,000 lbs GVWR	Yes
<b>Commercial Vehicle Inspection, Repair, and Maintenance</b> (49 CFR Part 396)	Yes	Only if operating for direct compensation, or over 10,000 lbs GVWR	Yes
<b>Preventive Maintenance Standards for Multipurpose Passenger Vehicles and Passenger Buses</b> (COMAR Title 11, 11.22.03)	Depends on seating capacity and ownership	Only if owned by the State or ant political subdivision and seats 10 or more	Yes

\*If your organization also receives FTA funding under Sections 5307, 5309, 5311, or 5339 program, you are subject to the more rigorous FTA Drug and Alcohol Testing requirements under 49 CFR Part 655).

## Minimum Insurance Levels that May Be Required for Your Organization

Requirement	Vehicles designed to seat 7 or fewer including the driver	Vehicles designed to seat 8 – 15 including the driver	Vehicles designed to seat 16 or more including the driver
<b>Minimum Levels of Financial Responsibility for Motor Carriers</b> (49 CFR Part 387), Subpart B – Motor Carriers of Passengers - If crossing state lines and operating for compensation ( <i>direct or indirect – includes grant funding for transportation</i> )	minimum \$1,500,000  <i>Exception: single daily round trip work commute</i>	minimum \$1,500,000  <i>Exception: single daily round trip work commute</i>	minimum \$5,000,000
<b>Minimum Insurance Requirements for Maryland Intrastate Only Operations</b> (COMAR Title 20, 20.95.01.18 – applies to carriers requiring a PSC permit)	<ul style="list-style-type: none"> <li>• \$50,000 for injury to one person,</li> <li>• \$100,000 for injuries to 2+ persons, and</li> <li>• \$20,000 for property damage</li> </ul> OR \$120,000 combined single limit.	<ul style="list-style-type: none"> <li>• \$75,000 for injury to one person,</li> <li>• \$200,000 for injuries to 2+ persons, and</li> <li>• \$50,000 for property damage</li> </ul> OR \$250,000 combined single limit.	<ul style="list-style-type: none"> <li>• \$75,000 for injury to one person,</li> <li>• \$400,000 for injuries to 2+ persons, and</li> <li>• \$100,000 for property damage</li> </ul> OR \$500,000 combined single limit.

## ADDITIONAL RESOURCES

### Federal Requirements

**FMCSA Small Passenger-Carrying Vehicles web page**

<https://www.fmcsa.dot.gov/registration/small-passenger-carrying-vehicles>

**FMCSA “Overview of Federal Requirements Interstate 9 to 15 Passenger Vehicles” brochure**

[https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/9-15-Passenger\\_Vehicle\\_Brochure\\_508.pdf](https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/9-15-Passenger_Vehicle_Brochure_508.pdf)

**FMCSA “Licensing and Insurance Requirements for For-Hire Motor Carriers of Passengers” brochure**

<https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/365-387-LI-Req-PCS-eng.pdf>

**49 CFR, Subtitle B, Chapter III—Federal Motor Carrier Safety Administration, Department of Transportation**

<http://www.ecfr.gov/cgi-bin/text-idx?SID=7ef7f713def1d71cd970806fa5e59172&mc=true&tpl=/ecfrbrowse/Title49/49CII/1subchapB.tpl>

**CTAA’s FMCSA Resource Webpage:**

<http://web1.ctaa.org/webmodules/webarticles/anmviewer.asp?a=344>

**CTAA’s “Figuring Out the Federal Motor Carrier Safety Administration (FMCSA) Regulations: Do They Apply and What to Do if the Answer Is “Yes””:**

[http://web1.ctaa.org/webmodules/webarticles/articlefiles/Texas\\_FMCSA\\_issues.pdf](http://web1.ctaa.org/webmodules/webarticles/articlefiles/Texas_FMCSA_issues.pdf)

**National Cooperative Highway Research Program (NCHRP) Research Results Digest 311: *FMCSA Regulations as They Apply to FTA Section 5310/5311 Providers: A Handbook* (2006):** [http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp\\_rrd\\_311.pdf](http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rrd_311.pdf)

### State Requirements

**COMAR Title 11 - Department of Transportation**

**Subtitle 21 Motor Vehicle Administration - Commercial Motor Vehicles**

[http://www.dsd.state.md.us/COMAR/subtitle\\_chapters/11\\_Chapters.aspx](http://www.dsd.state.md.us/COMAR/subtitle_chapters/11_Chapters.aspx)

*Incorporates FMCSA requirements by reference, extends some federal requirements for interstate operations to intrastate operations.*

**Maryland Motor Carrier Handbook**

<http://www.sha.maryland.gov/OOTS/motorcarrierhandbook.pdf>

**Title 11 - Department of Transportation**

**Subtitle 22 Motor Vehicle Administration – Preventive Maintenance Program**

**11.22.03 Preventive Maintenance Standards for Multipurpose Passenger Vehicles and Passenger Buses**

[http://www.dsd.state.md.us/COMAR/subtitle\\_chapters/11\\_Chapters.aspx](http://www.dsd.state.md.us/COMAR/subtitle_chapters/11_Chapters.aspx)

**Maryland Preventive Maintenance Program**

[http://www.mdot.maryland.gov/newMDOT/Motor\\_Carrier/PM\\_Program.html](http://www.mdot.maryland.gov/newMDOT/Motor_Carrier/PM_Program.html)

**Maryland PM Inspection Form for Passenger Buses**

<http://www.mdot.maryland.gov/Office%20of%20Maryland%20Motor%20Carrier%20Program/Documents/Passenger%20Bus%20Preventive%20Maintenance%20Report.pdf>

**Maryland PM Handbook**

Order from the **Division of State Documents** for a nominal fee  
(410) 974-2486 or (800) 633-9657 (toll-free within Maryland only)

Order form: <http://www.dsd.state.md.us/PDF/InfoSheet.pdf>

**Maryland Public Service Commission, Transportation Division**

<http://www.psc.state.md.us/transportation/>

(410) 767-8000 or (800) 492-0474

**COMAR Title 20 - Public Service Commission**

**Subtitle 95 Transportation**

**20.95.01 General**

[http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=20.95.01.\\*](http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=20.95.01.*)

**Please place your Drug-Free Workplace Policy on your agency letterhead and have it signed by your human service official authorized to sign your grant agreements. This is an example that would meet minimum Federal and State requirements for the Drug-Free Workplace Policy under 49 CFR part 32.**

**Note that this policy does NOT address any drug and alcohol testing program requirements that your agency may be subject to under 49 CFR part 382 or 49 CFR part 655.**

This policy template was drafted using the online policy builder available through the US Department of Labor website at: <http://webapps.dol.gov/elaws/drugfree.htm>

**Name of Agency**

## **Drug-Free Workplace Policy**

**Adopted Date**

### **Purpose and Goal**

**(Organization name)** is committed to protecting the safety, health and well-being of all employees and other individuals in our workplace. We recognize that alcohol abuse and drug use pose a significant threat to our goals. We have established a drug-free workplace policy and education program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment. This organization encourages employees to voluntarily seek help with drug and alcohol problems.

### **Covered Workers**

Any individual who is employed by the organization, is applying for a position, or is conducting business on the organization's property or in the organization's vehicles is covered by our drug-free workplace policy. Our policy covers all employees on our payroll, including temporary employees. Employees must abide by the terms of this policy as a condition of employment.

### **Applicability**

Our drug-free workplace policy is intended to apply whenever anyone is representing or conducting business for the organization. Therefore, this policy applies during all working hours,

whenever conducting business or representing the organization, while on organization property, and while in or servicing organization vehicles.

### **Prohibited Behavior**

It is a violation of our drug-free workplace policy to use, possess, distribute, dispense, sell, trade, and/or offer for sale controlled substances, including alcohol, illegal drugs or intoxicants.

### **Notification of Convictions**

Any employee who is convicted of a criminal drug violation in the workplace must notify the organization in writing within five calendar days of the conviction. The organization will take appropriate action within 30 days of notification. Federal funding agencies will be notified when appropriate.

### **Consequences**

One of the goals of our drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates the policy, the consequences are serious.

In the case of applicants, if he or she violates the drug-free workplace policy, the offer of employment can be withdrawn. The applicant may (not reapply OR reapply after six months/one year/whatever your organization's policy is) and must successfully pass a pre-employment drug test.

If an employee violates the policy, he or she will be subject to progressive disciplinary action and may be required to enter rehabilitation. An employee required to enter rehabilitation who fails to successfully complete it and/or repeatedly violates the policy will be terminated from employment. Nothing in this policy prohibits the employee from being disciplined or discharged for other violations and/or performance problems. (Your organization could opt to terminate the employee rather than progressive discipline/rehabilitation.)

### **Return-to-Work Agreements**

Following a violation of the drug-free workplace policy, an employee may be offered an opportunity to participate in rehabilitation. In such cases, the employee must sign and abide by the terms set forth in a Return-to-Work Agreement as a condition of continued employment. (Your organization could opt to bar a violating employee from future employment.)

### **Assistance**

(Organization name) recognizes that alcohol and drug abuse and addiction are treatable illnesses. We also realize that early intervention and support improve the success of rehabilitation. To support our employees, our drug-free workplace policy:

- Encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem.
- Encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.
- (If appropriate: Provides the services of an Employee Assistance Program.)
- Allows the use of accrued paid leave while seeking treatment for alcohol and other drug problems.

Treatment for alcoholism and/or other drug use disorders may be covered by the employee benefit plan. However, the ultimate financial responsibility for recommended treatment belongs to the employee.

### **Confidentiality**

All information received by the organization through the drug-free workplace program is confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.

### **Shared Responsibility**

A safe and productive drug-free workplace is achieved through cooperation and shared responsibility. Both employees and management have important roles to play. All employees are required to not report to work or be subject to duty while their ability to perform job duties is impaired due to on- or off-duty use of alcohol or other drugs.

In addition, employees are encouraged to:

- Be concerned about working in a safe environment.
- Support fellow workers in seeking help.
- Report dangerous behavior to their supervisor.

It is the supervisor's responsibility to:

- Inform employees of the drug-free workplace policy.
- Observe employee performance.
- Investigate reports of dangerous practices.
- Document negative changes and problems in performance.
- Counsel employees as to expected performance improvement.
- Clearly state consequences of policy violations.

### **Communication**

Communicating our drug-free workplace policy to both supervisors and employees is critical to our success. To ensure all employees are aware of their role in supporting our drug-free workplace program:

- All employees will receive a written copy of the policy.
- The policy will be reviewed in orientation sessions with new employees.
- Posters and brochures will be available at all locations.
- Employee education about the dangers of alcohol and drug use and the availability of help will be provided to all employees.
- Every supervisor will receive training to help him/her recognize and manage employees with alcohol and other drug problems.

(Note: Guidance in preparing posters, brochures, and employee education can be found in the U.S. Department of Health and Human Services' Drug-Free Workplace Kit - <http://store.samhsa.gov/shin/content/SMA07-4230/SMA07-4230.pdf>)

### **Drug & Alcohol Testing Program**

If your organization has a drug & alcohol testing program, you may wish to reference it here. However, this is a separate Federal requirement (if applicable to your agency) and your Drug-Free Workplace Policy should be distinctly identified as such.

---

Signature & Name of Authorized Official

---

Date



Form is to be put on Agency Letterhead and sign and dated by agency official authorized to sign grant agreements. Agencies may add to or delete from this policy to meet their agency requirements so long as Maryland law regarding driving and using a cell phone are met.

## Model Cell Phone Policy Template

### SAFE COMMUNICATION WHILE DRIVING

- A. State law prohibits any driver from “texting” (the sending or receiving of a text message) while operating a motor vehicle. Therefore, no person may send or receive a text message from a cell phone, Personal Digital Assistant (PDA) or any other text capable device while operating an (name of Agency) vehicle.
- B. State and Federal regulations require that CDL holders and/or (name of Agency) drivers not be distracted from safe vehicle operations due to the use of personal communication devices (cellular phones, iPhones, PDAs or any other personal communication devices, including “hands-free” units such as Bluetooth headsets). Therefore, (name of Agency) vehicle operators may not send, receive or otherwise engage in verbal messages using a personal communication device while operating a (name of Agency) vehicle. If personal emergencies or work needs necessitate the need to communicate via a personal communication device, the (name of Agency) vehicle operator may do so only after they have safely pulled off of the road and secured their vehicle.
- C. (Name of Agency) vehicle operators are required to be attentive to the special needs of the clients they are transporting. Therefore, (name of Agency) drivers may not use or wear any audio listening devices (including ear phones of any kind) attached to their neck or head without the expressed prior approval of their Supervisor.

Authorized By: \_\_\_\_\_ Date: \_\_\_\_\_



The accident procedure below is a sample which meets Federal and State requirements related to: reporting and recording of accidents, meeting the definition of “serious accidents” and how to respond to and address accidents. Human service agencies and their insurance companies likely will have other specific requirements and procedures as well which can and should be added to this procedure. The agency Accident/Incident Procedure is to be signed and dated by the agency official authorized to sign the agency grant agreements and it may be combined as part of a larger agency policy or procedure.

### **ACCIDENT/INCIDENT PROCEDURES**

All **agency** drivers are expected to behave responsibly in any accident situation they are involved in. Drivers are responsible for the safety of their clients/patrons, the **agency** vehicle, and any reports necessary in any accident/incident situation. An accident/incident situation is an occurrence, no matter how minor or trivial, involving a driver and/or the agency vehicle they are operating and the person or personal property of others which has resulted in or has the potential to result in personal injury or property damage.

Accidents/incidents are defined into two categories: accidents/incidents and “serious accidents/incidents.” The following procedures list specific steps that each driver is to perform in the event of any accident/incident situation:

- A. Vehicular Accident/Incident – Procedures are listed in order of performance:
  - 1. Stop the vehicle at the nearest safe area out of the way of traffic, apply the emergency brakes, turn on hazard warning signals (flasher), and turn off all other accessory switches and lights. Keep the vehicle engine idling unless in an accident involving engine or fuel damage (in which case the engine is to be shut down

immediately) or ordered to do so by a Police Officer or **Agency Supervisory** personnel. Always remove the ignition keys from the ignition whenever leaving the vehicle.

2. Contact the **Agency Operations Center** immediately and follow any instructions relayed. The appropriate authorities will be contacted by **Agency Supervisory** personnel. Cooperate fully with any Police Officer who arrives on the scene.
3. Calm the client/patrons on-board and see to the welfare of any disabled client/patrons. Unless there is a fire, danger of fire (fuel leakage), or the vehicle is sitting in an unsafe location, request all patrons to stay on-board the vehicle until the Police and/or a spare vehicle arrives. Deploy safety triangles at a moderate angle from the vehicle to the curb in the direction of approaching traffic over a distance of 30 paces or 3 car lengths.
4. Get all relevant insurance information from any involved parties necessary to fill out the Accident/Incident Report (**sample form attached**). Always request any witnesses and/or clients to give you their full name, address, and phone number.
5. Once the accident/incident is resolved, follow any instructions relayed from the Police or the **Agency Operations Center**. Proceed back into service only on the instructions of a Police Officer or **Agency Supervisory** personnel.

- B. **Serious Accident/Incident:** A “**serious accident or incident**” is defined as a safety or security accident or incident resulting in one or more of the following conditions: a fatality occurring at the scene or confirmed within 30 days of the incident; an injury requiring immediate medical attention away from the scene for one or more persons; property damage at the scene equal to or exceeding \$25,000 or the towing of any disabled vehicle from the scene; and/or an evacuation for life safety reasons. Procedures to address a serious accident are listed in order of performance.

1. If able, stop the vehicle at the nearest safe area out of the way of traffic, apply the emergency brakes, turn on hazard warning signals (flasher), and turn off all other accessory switches and lights. Keep the vehicle engine idling unless in an accident involving engine or fuel damage (in which case the engine is to be shut down immediately) or ordered to do so by a Police Officer or **Agency Supervisory** personnel. Always remove the ignition keys from the ignition whenever leaving the vehicle.
2. If the accident/incident is of an emergency nature (that is fire, smoke are present or likely to be present), the driver is to immediately evacuate the agency vehicle. Client/patrons are to be relocated to the nearest safe location off of the road.
3. Contact the **Agency Operations Center** immediately and follow any instructions relayed. The appropriate authorities will be contacted by **Agency Supervisory** personnel. Cooperate fully with any Police Officer who arrives on the scene. If unable to contact the **Agency Operations Center**, immediately contact 911.
4. Calm the on-board client/patrons and determine who is injured. Do not attempt to move any injured clients/patrons unless they are in a life-threatening situation. Request any injured client/patrons to remain seated until help arrives. Drivers are only expected to look to the comfort of an injured client/patron. Only properly trained and certified individuals may administer first aid or treat injured client/patrons.
5. Once any injured client/patrons are attended to, the driver should look to the welfare of any other on-board clients/patrons (especially disabled clients/patrons). Driver is to request that all client/patrons stay on-board the vehicle until the Police and/or a spare vehicle arrives.
6. Get all relevant insurance information from any involved parties necessary to fill out the Accident Report. Always request any

witnesses and/or clients to give you their full name, address, and phone number.

7. Once the accident/incident is resolved, follow any instructions relayed from the Police or the **Agency Operations Center**. Proceed back into service only on the instructions of a Police Officer or **Agency Supervisory** personnel.
8. Should the vehicle operator be injured, they will be transported to the nearest medical facility by their **Agency** Supervisor. If the Supervisor is in doubt about the severity of the injury, they should request an ambulance response, which will transport the injured driver to the nearest hospital.

C. Accident Reporting Procedures – the following reporting procedures are to be followed in the event of any **agency** vehicular accident/incident:

1. In the event of any vehicular accident or incident, no matter how minor, always contact the **Agency Operations Center** as soon as safely possible. Always cooperate fully with any Police Officer (or emergency personnel) on the scene.
2. Located on each vehicle is an **Agency** Accident Procedure Package indicating accident procedures to be followed and forms to be filled out. Once the accident/incident situation is under control, the driver will fill out the appropriate forms. The driver is to get all relevant insurance information from any involved parties necessary to fill out the **Agency** Accident Report. Always get the name, address, and telephone number of any witnesses and retain all the information for use in filling out the **Agency** forms. The driver is to use the Service Request Form provided on all vehicles when securing necessary information to his/her Supervisors at the earliest possible moment. The Police will prepare and file their own report and provide you with a case number.

3. At the scene of any accident/incident, never sign or make any statement regarding Agency or driver responsibility for the accident/incident to anyone except Agency Supervisory personnel.  
Requests for personal and vehicle identification or insurance information should always be given to and requested of any party involved.
4. Any driver involved in an accident will meet with his/her Supervisor within 24 hours to finalize the Accident Report, using the information gathered from the accident scene, and to conduct a thorough accident review. Drivers will be subject to post accident drug and alcohol testing in accordance with established USDOT and Agency Personnel Procedures.
5. Agency Supervisory personnel are to contact the Maryland Transit Administration (MTA) 5310 Program Administrator within 48 hours of the occurrence of any **Serious Accident/Incident**. The agency will provide the MTA with written confirmation of and details on the **serious accident/incident** utilizing the attached Form.

Signed by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_





**SAMPLE VEHICLE ACCIDENT REPORT FORM**

DATE OF REPORT: \_\_\_\_\_

**ABOUT THE ACCIDENT**

Date of Accident \_\_\_\_\_ Time \_\_\_\_\_ A.M / P.M.

Were you Inbound or Outbound ? (circle one)

Veh. No. \_\_\_\_\_ Route \_\_\_\_\_ Driver \_\_\_\_\_

Driver's ID No. \_\_\_\_\_ Address \_\_\_\_\_ Date of Birth \_\_\_\_\_

Location of Accident \_\_\_\_\_

Road Condition \_\_\_\_\_ Weather \_\_\_\_\_

At What Distance Did You Notice the Impending Accident \_\_\_\_\_ Feet

What Was Your Speed \_\_\_\_\_ MPH

Approximate Distance Traveled After Impact \_\_\_\_\_ Feet

Did You Sound Horn \_\_\_\_\_

No. of Passengers on Board at Time of Accident \_\_\_\_\_

Point of Impact on Your Vehicle \_\_\_\_\_

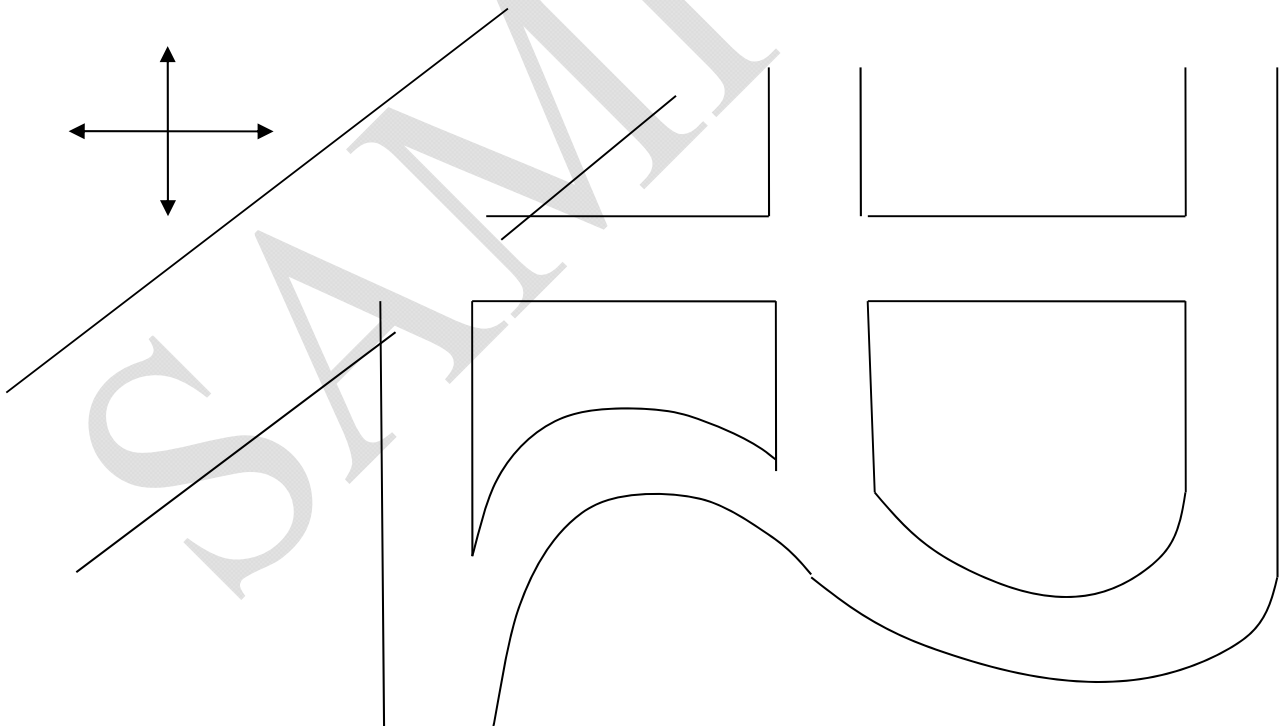
Damage to Your Vehicle Confined to \_\_\_\_\_

**NARRATIVE (DESCRIPTION OF ACCIDENT)**

## SAMPLE VEHICLE ACCIDENT REPORT FORM

WITNESSES		
Names	Addresses	Phone Numbers

SKETCH OF ACCIDENT SCENE
--------------------------



Please indicate on the diagram the position of vehicles, directions they were facing, traffic signal lights or stop signs, and other information which you deem pertinent.

NOTE: IDENTIFY VEHICLES BY NUMBER WITH THE TRANSIT VEHICLE ALWAYS LABELED #1

## SAMPLE VEHICLE ACCIDENT REPORT FORM

## ABOUT THE INJURIES

Were passengers in transit vehicle injured? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, list below:

Name	Address	Transported for medical treatment?

Was anyone in the other vehicle injured? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, list below:

Name	Address	Transported for medical treatment?

## ABOUT THE SECOND VEHICLE, PEDESTRIAN OR PROPERTY

Year	Make	Type	Color	License Plate	State	Inbound	Outbound

Driver or Pedestrian's Name \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Age \_\_\_\_\_

Owner's Name \_\_\_\_\_ Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Insurance Number \_\_\_\_\_ Company \_\_\_\_\_

**SAMPLE VEHICLE ACCIDENT REPORT FORM**

Agent \_\_\_\_\_

Point of Impact \_\_\_\_\_

Damage to His/Her Vehicle \_\_\_\_\_

What Did Driver Say \_\_\_\_\_

Approximate Distance Vehicle Traveled After Impact \_\_\_\_\_ FT

Number of Passengers In Vehicle \_\_\_\_\_

Did Police Investigate \_\_\_\_\_ Department \_\_\_\_\_

**ABOUT THE THIRD VEHICLE, PEDESTRIAN OR PROPERTY**

Year	Make	Type	Color	License Plate	State	Inbound	Outbound

Driver or Pedestrian's Name \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Age \_\_\_\_\_

Owner's Name \_\_\_\_\_ Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Insurance Number \_\_\_\_\_ Company \_\_\_\_\_

Agent \_\_\_\_\_

Point of Impact \_\_\_\_\_

Damage to His/Her Vehicle \_\_\_\_\_

What Did Driver Say \_\_\_\_\_

Approximate Distance Vehicle Traveled After Impact \_\_\_\_\_ FT

Number of Passengers in Vehicle \_\_\_\_\_

Did Police Investigate \_\_\_\_\_ Department \_\_\_\_\_

Signature of Person Preparing this Report: \_\_\_\_\_

Signature of Person Receiving this Report: \_\_\_\_\_

IF MORE THAN THREE VEHICLES, PEDESTRIANS OR PROPERTIES ARE INVOLVED  
ATTACH ADDITIONAL COPIES OF THIS PAGE

**Name of Agency CLIENT PICK UP AND DISCHARGE PROCEDURES**

- A. ***Name of Agency*** operates on a designated stop basis where specific stop locations will be identified for pick-up and drop-off on the driver's Driver Trip Record or through Agency instruction and may change day-to-day or from pick-up to pick-up. Unless instructed otherwise, drivers are always to stop at any designated stop location to board or to disembark clients/patrons. Drivers are not to block an intersection or crosswalk when picking up or discharging clients/patrons. All designated stop locations on a driver's Trip Record/route must be served unless instructed otherwise.
- B. Drivers will not stop to pick up or discharge clients/patrons between designated stops unless authorized by Agency instructions. Drivers will only pick up and discharge patrons on a request basis (letting the clients/patrons on and off the vehicle at the client's/patron's discretion) with prior agency approval.
- C. In all instances when approaching a designated stop, the driver is to come to a complete stop with the front door as near as possible to the waiting client/patron. Drivers are always to seek the most level area to pull over out of the way of moving traffic. Doors are not to be opened until the vehicle has come to a complete stop. Drivers are also to pull as close to the curb as possible so as not to impede the flow of traffic and allow easy access to clients/patrons. Vehicle flashers are to be on for the entire boarding or disembarking process. If necessary, embarking clients/patrons are to be asked to wait to board until disembarking clients/patrons have had a chance to exit the bus.

- D. Drivers are never to move their vehicle while clients/patrons are in the process of boarding or disembarking. Drivers should not move their vehicles until all patrons are seated (space permitting). Drivers will fill out an Incident Report any time a client/patron falls in the process of boarding or disembarking or, even after claiming there are no injuries. Drivers must fill out an accident report if the client/patron claims to be or is injured during the boarding or disembarking process.
- E. Unless instructed otherwise, operators will not allow patrons to board their vehicles in excess of the “safe load” or past the white line. When it becomes necessary to pass up patrons because the vehicle is loaded to capacity (in excess of “safe load”), the driver must contact the Agency Operations Center to report such and identify the stop location where clients/patrons were left behind.
- F. If needed, drivers are expected to assist ambulatory passengers boarding from the curb and assist in securing seatbelts if the client/patron requests such or if the client’s/patron’s condition is such that they are unable to sit erect in their seat. Drivers must operate the wheelchair lift and secure wheelchairs in the designated securement locations for passenger using wheelchairs. Drivers are expected to assist wheelchair passengers to and from their wheelchair and the bus seats if transferring is requested or needed by the client/patron. Standees requesting use of the wheelchair lift must be allowed to use the lift upon request. If needed, drivers are to place a small step (provided by the Agency Operations Center) at the door well to assist in client/patron boardings. Care is to be given in these circumstances to assist clients/patrons so they do not stumble or fall.
- G. In general, *Name of Agency*, operates on a curb-to-curb basis. That is, drivers are to provide assistance to clients/patrons as noted. above from the curb to board the bus and to the curb to disembark the bus. However, some routes (specify which ones) and some clients/patrons may request the driver to provide assistance to the client/patron from the bus to the door of the pick-up or drop-off location. In these cases, drivers are

## ATTACHMENT 8.E

expected to provide door-to-door assistance as needed and are not to leave a client/patron stranded who is unable to get to the curb from their pick-up location or from the curb to their destination location. Drivers may not enter a home/business to render such assistance, but are expected to assist the client/patron in and out of the entryway. Drivers are to report all such situations to their Agency Supervisors prior to rendering such extra assistance.

Signed By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_





# Chapter 9 - ITS Projects and Mobility Management

## INTRODUCTION

If you have a Section 5310 grant for a mobility management or other Intelligent Transportation Systems (ITS) capital project in Maryland, this chapter applies to you. This chapter presents requirements for ITS projects funded under Section 5310 (and the prior JARC and New Freedom programs), as well as resources for mobility management projects in general.

Section 5310-funded ITS projects could include geographic information systems (GIS) mapping, global positioning system (GPS) technology, coordinated vehicle scheduling, dispatching and monitoring technologies, technologies to track costs and billing in a coordinated system, and electronic customer payment systems and fare-boxes.

Mobility management is intended to build coordination among existing public transportation providers and other transportation service providers with the result of expanding the availability of service.

Many ITS projects facilitate coordination and mobility management or Section 5310 projects may include ITS components.

## ITS Projects

Any capital project that involves a technology purchase and/or development may fall under the category of ITS projects. An ITS project is any project that in whole or in part funds the acquisition of technologies or systems that provide/enhance transit/transportation operations and quality of service by sharing data between stakeholders. ITS projects have specific requirements which are outlined later in this chapter.

Examples of systems/components (purchased singly or included with a vehicle purchase) that constitute an ITS project include:

- Automatic Passenger Counters (APC)
- communications systems/equipment
  - on-board radio or wireless
  - mobile data computers/terminals
- crash avoidance systems
- data archiving
  - device output data management
  - data storage
- Electronic Fare Collection (EFC)

- electronic fare cards (SmarTrip, etc.)
  - electronic farebox
- emerging vehicle technology
- emergency management systems
- scheduler/dispatch systems
  - schedule/dispatch software
  - carpool/ride-matching software
- tracking/monitoring
  - Automatic Vehicle Location (AVL)
  - GPS location tracking
  - electronic security or surveillance (on-board, station/stop, or transit yard)
  - equipment maintenance status
  - electronic vehicle diagnostics
  - route monitoring (weather, traffic)
  - transit centers/systems
- Transit Signal Priority (TSP)
- traveler information systems
  - "511" service
  - NextBus
  - variable message signs
  - enunciators
  - web-based transit information
  - cell-phone based transit info/apps
  - route/itinerary planning tools
  - parking availability information

Applications for FTA/MTA funding are required to identify the inclusion of ITS systems/components as part of the grant application.

## **REQUIREMENTS PERTAINING TO ITS PROJECTS**

### **Conformance with National and Regional ITS Architecture**

ITS projects funded by FTA must conform to the National ITS Architecture, as well as to USDOT-adopted ITS Standards. ITS projects and programs are also required to be a part of a locally approved Regional ITS Architecture. The ITS Architecture Policy provides flexibility to local areas in determining what agencies or organizations take the lead in developing the regional ITS architecture. The policy requires that the regional ITS Architecture must be part of the local planning process and be consistent with and

be reflected in the Statewide Transportation Improvement Plan (STIP) and the Transportation Improvement Plan (TIP) of the region's Metropolitan Planning Organization (MPO).

In addition, the subrecipient must establish a process for the systems engineering analysis of ITS projects.

### ***What are the ITS Standards?***

To date, the USDOT has not adopted any ITS standards. Updated information on the USDOT ITS Standards Program can be found at <http://www.standards.its.dot.gov/>.

FTA encourages the appropriate use of standards that have been developed via industry consensus by a standards development organization (SDO). The SDOs include the American Public Transportation Association (APTA); all of USDOT's SDOs are listed online here: <https://www.standards.its.dot.gov/About/ProgramPartners>. Among the standards developed by APTA include Transit Communications Interface Profiles (TCIP), Control and Communications Security (development is currently under way), and Transit Operational Software (development is currently under way).

### ***What is Regional ITS Architecture?***

As noted above, FTA-funded ITS projects and programs are also required to be a part of a locally approved Regional ITS Architecture. The Regional ITS Architecture is a tool that is used in transportation planning, programming, and project implementation for ITS. It is a framework for institutional agreement and technical integration for ITS projects and is the place to start when defining the basic scope of a project.

Subrecipients of FTA funds are not likely to be the lead agency for the development of the regional ITS architecture. The lead agency may be the MPO or the State. However, the subrecipient needs to be an active participant in the Regional ITS Architecture development and maintenance if the subrecipient is implementing ITS projects.

The Maryland Statewide ITS Architecture was developed in 2009 and can be found on the website of the ITS Maryland website at <http://itsmd.org/resources/maryland-its-architecture/>. The Maryland Statewide Architecture was developed for the State Highway Administration with support from the University of Maryland Center for Advanced Transportation Technology Laboratory and the Federal Highway Administration.

## **ITS Compliance and Conformity Review Process for Subrecipients**

MTA is responsible for reviewing ITS-related projects of its subrecipients and documenting their compliance with the regional ITS architecture. All ITS projects are required to go through the ITS Architecture Panel (IAAP) for review. The IAAP, created

by the Maryland State Highway Administration, is the oversight panel that created the Statewide ITS Architecture and that reviews all projects that need to conform.

MTA begins the review process as part of the grant application evaluation. To ensure ongoing funding eligibility, all ITS projects must:

- show conformity with MD Architecture.
- adjust to become consistent with MD Architecture if nonconforming.
- apply ITS Standards and Systems Engineering Analysis where applicable.

Projects selected for MTA funding are subject to IAAP review for conformity prior to project initiation. Once the IAAP determines that the project conforms with Maryland ITS Architecture, it releases notice of project conformity. Based on this notice, the MTA issues a letter of concurrence, and then the project can be initiated. The timeframe for this review process can range from two to four months.

## **Systems Engineering Analysis**

FTA grantees are required to follow a systems engineering analysis in implementing an ITS project. The IAAP review process described above includes this analysis. Systems engineering reduces the risk of schedule and cost overruns and increases the likelihood that the implementation will meet the user's needs. Appendix 9.A outlines the seven-step systems engineering analysis prescribed in FTA's ITS Architecture Policy, as well as factors used to assess the extent of the risk involved in the project. If a 5310 subrecipient is seeking ITS funding, it will have to follow the seven-step process and include relevant portions as part of their grant application. Each subrecipient should contact the 5310 Program Manager prior to requesting an ITS project grant.

Because of the above requirements, procurement of ITS technology funded by Section 5310 needs to:

- include provisions for conformity with the National ITS Architecture,
- be included as a part of a locally approved Regional ITS Architecture,
- include the seven step systems engineering analysis listed in Appendix 9.A (at least for high-risk projects), and
- complete a Maryland ITS Architecture Conformity Form (Attachment 9.A) as part of the 5310 grant application.

## **EXAMPLES OF MOBILITY MANAGEMENT ACTIVITIES**

As defined in the FTA circular for Section 5310, mobility management activities may include:

- promotion, enhancement, and facilitation of access to transportation services, including the integration and coordination of services for individuals with disabilities, seniors, and low-income individuals;
- support for short term management activities to plan and implement coordinated services;
- support of State and local coordination policy bodies and councils;
- operation of transportation brokerages to coordinate providers, funding agencies and customers;
- provision of coordination services, including employer-oriented transportation management organizations' and human service organizations' customer-oriented travel navigator systems and neighborhood travel coordination activities such as coordinating individualized travel training and trip planning activities for customers;
- development and operation of one-stop transportation traveler call centers to coordinate transportation information on all travel modes and to manage eligibility requirements and arrangements for customers among supporting programs; and
- operational planning for the acquisition of intelligent transportation technologies to help plan and operate coordinated systems inclusive of Geographic Information Systems (GIS) mapping, Global Positioning System (GPS) technology, coordinated vehicle scheduling, dispatching and monitoring technologies as well as technologies to track costs and billing in a coordinated system and single smart customer payment systems.

## **MOBILITY MANAGEMENT TECHNICAL ASSISTANCE RESOURCES**

### **Technical Assistance Available through MTA**

Subrecipients implementing mobility management and other coordination programs may be eligible for technical assistance from MTA. Depending upon the assistance needed, the assistance could potentially come from MTA staff or a consultant under contract to MTA. Subrecipients seeking assistance on setting up a new program or problem-solving for an existing program are encouraged to contact their MTA OLTS representative to discuss their assistance needs and goals. Two forms of Mobility Management programs are discussed further below.

### **Additional Resources**

National mobility management resources include:

- National Center for Mobility Management (NCMM):  
<http://nationalcenterformobilitymanagement.org/>
- American Public Transportation Association (APTA) Mobility Management web page:  
<http://apta.com/resources/hottopics/mobility/Pages/default.aspx>
- CTAA's One Call-One Click Toolkit:  
<http://web1.ctaa.org/webmodules/webarticles/anmviewer.asp?a=2428&z=101>

## *Travel Training*

Travel training is an increasingly popular service to help individuals learn to ride fixed-route transit independently. The form of instruction can range from “bus familiarization” group classes to intensive one-on-one training with an individual needing a higher level of assistance to take particular trips. Travel training is typically provided by a transit system, human service agency for their clients, or another organization in partnership with the transit system. National resources include:

- National Aging and Disability Transportation Center (NADTC) offers free resources, including travel training resources developed under the former FTA-funded Project ACTION: <http://www.nadtc.org/>
- Easter Seals Project Action Consulting and the Center for Urban Transportation Research offers a Travel Trainer Certification program: <http://www.projectaction.com/travel-trainer-certification>
- Association of Travel Instruction (<http://www.travelinstruction.org/>) supports providers of travel instruction for the purpose of teaching individuals with disabilities and seniors to travel safely and independently. Organizations seeking to hire a travel instructor can find sample position descriptions under the “job opportunities” page on the ATI website, and can also post a listing on this page as part of their recruitment efforts.
- National Center for Mobility Management (NCMM) travel training web page includes links to additional resources:  
<http://nationalcenterformobilitymanagement.org/by-topic-travel-instruction/>

## *One-Stop Information Center*

One-stop information centers provide a single point of contact through which individuals learn about transportation services. The information can be provided by telephone, online, and/or in-person.

- CTAA's One Call-One Click Toolkit:  
<http://web1.ctaa.org/webmodules/webarticles/anmviewer.asp?a=2428&z=101>
- CTAA's web page on Disability Program Navigators:  
<http://web1.ctaa.org/webmodules/webarticles/anmviewer.asp?a=145&z=5>
- Disability Program Navigators in Maryland:  
<http://www.mdworkforcepromise.org/dpn.html>
- Examples of regional one-stop information centers established in Maryland include:
  - Transportation Resource Information Point (TRIP), a service of Central Maryland Regional Transit: <http://www.mdtrip.org/>
  - Delmarva Community One Stop, a service of Delmarva Community Services, Inc.: <http://www.dcsdct.org/transportation--mobility.html>

## SUMMARY

Under Chapter 9 of this manual, as a subrecipient of Federal and/or State ITS funding, you will be required to provide the following information, forms or material:

- A Maryland Architectural Conformity Form 100209 as part of the application process. A sample Conformity Form 100209 is provided as Attachment 9.A.
- Follow and successfully complete the Seven-Step ITS review process. You will not be able to initiate procurement of your ITS project material until you receive a ITS Conformity Concurrence Letter. See Appendix 9.A for further information.







## Maryland ITS Architecture Conformity Form

<b>Submission Date</b>	
1. Submission date:	
<b>Organizational Information</b>	
2. Legal name of submitting agency:	
<b>Point of Contact Information</b>	
3. Point of contact submitting form:	
4. Phone:	5. Fax:
6. E-mail:	
7. Mailing address:	
<b>General Project Information</b>	
8. ITS project name/title:	
9. Project type: <input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Expansion	10. Project scope (select all that apply): <input type="checkbox"/> Software installation/upgrade <input type="checkbox"/> Hardware installation/upgrade <input type="checkbox"/> Operations/Maintenance <input type="checkbox"/> Systems Integration <input type="checkbox"/> Planning <input type="checkbox"/> Other (provide more detail below)
11. Summarize the project (including how this project relates to existing ITS projects/systems):	
12. Describe the needs this project will satisfy:	
13. List the users of the project when complete:	
14. Describe how the users will benefit from the project:	
15. Describe the geographic areas to be served:	

Version: December, 2009  
Conformity Form



## Maryland ITS Architecture Conformity Form

### Architecture-Specific Information

16. Summarize the current status of the project (including where it stands in terms of the Systems Engineering process diagram shown in the accompanying Conformity Guide):

17. List stakeholder agencies and their roles/responsibilities for this project:

18. Identify the functional requirements for this project:

19. Show how your project aligns with the Interconnect and Information Flow Diagrams in the MD ITS Architecture:

20. Describe the configuration & technology options considered for this project and indicate which were selected:

21. Describe the procurement options considered for this project and indicate which were selected:

22. Identify applicable ITS standards to be used in support of this project:

23. Describe your plan for ensuring adequate operations and maintenance of this project after implementation:

### Other Information

24. Please provide any other relevant information:

### Project Schedule

25. Estimated start date:

26. Estimated completion date:

### Estimated Capital Budget

27. Total capital budget:

28. Percent federal funding & sources:

29. Percent state funding & sources:

30. Percent local funding & sources:

31. Percent other funding & sources:

### Estimated Annual Operations & Maintenance Budget

32. Total annual O&M budget:

33. Percent federal funding & sources:

34. Percent state funding & sources:

35. Percent local funding & sources:

36. Percent other funding & sources:

# Chapter 10 - Other Requirements

## INTRODUCTION

This chapter describes the following requirements for Section 5310 subrecipients:

- **Labor Protections** – If your Section 5310 grant funds a construction contract valued over \$2,000, or if your 5310 grant includes funds transferred from other FTA program, one or more labor protection requirements apply to you.
- **Lobbying Restrictions** – FTA funds may not be used for lobbying purposes. This applies to all 5310 subrecipients.
- **Debarment/Suspension** – FTA funds cannot be granted to organizations that are debarred, suspended or otherwise excluded from covered transactions by any Federal department or agency. This applies to all 5310 subrecipients.

## LABOR PROTECTIONS

### Construction Employee Protections

If your Section 5310 grant funds a construction contract valued over \$2,000, the Copeland “Anti-Kickback” Act and the Davis Bacon Act apply to this contract. It is unlikely that 5310 subrecipients will receive more than \$2,000 in construction funds; however, if you do receive more than \$2,000 in construction funds in any one fiscal year please see Appendix 10.A. for additional information on these requirements.

### Transit Employee Protective Arrangements

If your Section 5310 grant includes flexible FTA funds transferred from other programs, you may be subject to Section 5333(b) of Title 49 U.S. Code (formerly referred to as Section 13(c)). MTA will advise you if this is the case. More information about Section 5333(b) protections is provided in Appendix 10.A.

## LOBBYING RESTRICTIONS

The 5310 subrecipient may not use any Federal funds to attempt to influence an officer or employee of any agency, Member of Congress, officer or employee of Congress, or employee of a Member of Congress pertaining to the award of any Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement.

To ensure that Federal funds are not used for lobbying purposes, all applicants must certify that your agency does not use Federal funds to lobby and, if using non-Federal funds to lobby, has filled out the proper disclosure forms (Standard Form LLL), as part of the certifications and assurances submitted with the grant application to the MTA (Attachment 10.A). Subrecipients must also obtain these certifications for any third-party contract over \$100,000.

## DEBARMENT/SUSPENSION

FTA funds cannot be granted to organizations that are debarred, suspended or otherwise excluded from covered transactions by any Federal department or agency.

All applicants must certify that their organization is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency; that they have not been convicted of or had a civil judgment rendered against them for fraud settlement or financial criminal offenses within the preceding three years (or currently charged or indicted). Subrecipients must also obtain these certifications for any third-party contract over \$100,000.

If a subrecipient becomes aware that any of the certifications are false, this must be immediately reported to MTA.

### SUMMARY

Under Chapter 10 of this manual, as a subrecipient of Section 510 funding, you will be required to provide the following information or certifications:

- A Certification of Restrictions on Lobbying as part of the grant application process. A sample Lobbying Certification is provided as Attachment 10.A.
- A Debarment/Suspension Certification signed as part of the Certifications and Assurances of the grant application process. See your 5310 application instructions for further information.

## ATTACHMENT 10.A

**The Certification of Restrictions on Lobbying is a required part of each MTA biennial Section 5310 grant application process as required under the Fixing America's Surface Transportation (FAST) Act of 2015. You will be required to sign the Certification below as part of each MTA grant application cycle and maintain a copy on file at your agency.**

### CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, \_\_\_\_\_ (Authorized Person) hereby certify to the Maryland Transit Administration of the Maryland Department of Transportation, on behalf of \_\_\_\_\_ (Applicant-Grantee) that to the best of my knowledge and belief:

1. No Federal appropriated funds have been or will be paid by or on behalf of the Applicant to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress regarding the award of Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; and
  - a. If any funds other than Federal appropriated funds have been or will be paid to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application for Federal assistance, the Applicant assures that it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," including information required by the instructions accompanying the form, which form may be amended to omit such information as authorized by 31 U.S.C. 1352.
  - b. The language of this certification shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, subagreements, contracts under grants, loans, and cooperative agreements).
2. The Applicant understands that this certification is a material representation of fact upon which reliance is placed by the Federal Government and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. The Applicant also understands that any person who fails to file a required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By: \_\_\_\_\_  
Signature of Authorized Official  
Date: \_\_\_\_\_

Name (print): \_\_\_\_\_  
Title: \_\_\_\_\_

