

STATE MANAGEMENT PLAN

SECTION 5311

RURAL AREA FORMULA PROGRAM

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Arkansas Department of Transportation
Transportation Planning and Policy Division
Public Transportation Programs Section

In cooperation with

U.S. Department of Transportation
Federal Transit Administration

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This notice is available from the ADA/504/Title VI Coordinator in large print, on audiotape and in Braille.

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Subrecipients should be aware that Federal Transit Administration (FTA) programs are governed by various laws and regulations. Therefore, FTA develops program circulars as guidelines to administer the programs. The FTA Circular 9040.1G (October 24, 2014) is developed specifically for the Rural Area Formula Program (Section 5311 Program).

On December 4, 2015, President Obama signed the Fixing America's Surface Transportation FAST Act (Pub. L. No. 114-94) into law - the first Federal law in over a decade to provide long-term funding certainty for surface transportation infrastructure planning and investment through fiscal year 2020.

PROGRAM GOALS AND OBJECTIVES

To ensure that Section 5311 Program funds are utilized in the most responsible manner possible, the Arkansas Department of Transportation (Department) maintains the goal of encouraging rural transit systems to be as cost effective and efficient as possible. The objectives for accomplishing the goal are as follows:

- a. Enhancing access in rural areas to health care, shopping, education, employment, public services, and recreation;
- b. Assisting in the maintenance, development, improvement, and use of public transportation systems in rural areas;
- c. Encouraging the facilitating the most efficient use of all transportation funds used to provide passenger transportation in rural areas through the coordination of programs and services;
- d. Providing financial assistance to help carry out national goals related to mobility for all, including seniors, individuals with disabilities, and low-income individuals;
- e. Increasing availability of transportation options through investments in intercity bus services, where feasible;
- f. Assisting in the development and support of intercity bus transportation, where feasible;
- g. Encouraging mobility management, employment-related transportation alternatives, joint development practices, and transit-oriented development; and
- h. Providing for the participation of private transportation providers in rural public transportation.

In order to provide the rural transit properties with the technical assistance and resources necessary to meet the goal and objectives already stated, the Department will provide assistance by:

- Implementation of regulation, rules and latest technology in the field of public transportation through technical assistance.
- Providing information to vehicle manufacturers and equipment suppliers for improving the quality of transit products.

- Responsibility for sustaining the Arkansas Public Transportation Coordinating Council in its effort to enhance transportation services in Arkansas.
- Assisting the Arkansas Transit Association (ATA) in a support role, i.e. funding, training workshops, exchanging transit related datasets, joint production of an annual Arkansas Public Transportation Directory, and an annual statewide transit conference.

ROLES AND RESPONSIBILITIES OF THE DEPARTMENT

The Governor of Arkansas has designated the Department as the recipient of all FTA programs and funding for the purpose of administering those funds in accordance with State and Federal laws, statutes, and regulations. Within the Department's Transportation Planning and Policy Division, the Public Transportation Programs Section (PTPS) has the following roles and responsibilities to:

- Document the State's procedures in a State Management Plan (SMP);
- Notify eligible local entities of the availability of the program;
- Plan for future transportation needs, and ensure integration and coordination among diverse transportation modes and providers;
- Solicit applications;
- Develop project selection criteria;
- Review and select projects for approval;
- Forward an annual program of projects and grant application to FTA;
- Certify eligibility of applicants and project activities;
- Ensure compliance with Federal requirements by all subrecipients;
- Monitor local project activity;
- Oversee project audit and closeout; and
- File a National Transit Database (NTD) for the Department and subrecipients and Federal Funding Accountability and Transparency Act (FFATA) report annually for each subrecipient and when Section 5311 Program subrecipients' rolling stock is ordered.

STATE ADMINISTRATION OF PROJECTS

The Department must exercise adequate oversight to ensure that only eligible activities receive Federal assistance and that subrecipients meet Federal requirements. In administering the project, the Department must:

- Provide for appropriate technical assistance for rural areas;
- Ensure that there is a fair and equitable distribution of program funds within the State where legitimate, sustainable transit providers are available;
- Ensure a process whereby private transit operators are provided an opportunity to participate, including private providers of public transportation services through service agreements with operators of public transportation services or as subrecipients;
- Expend funds for the support of intercity bus transportation to the extent required by law, where feasible;
- Provide for maximum feasible coordination of public transportation services assisted by FTA with transportation services assisted by other federal programs.

ELIGIBLE SUBRECIPIENTS

The Department's policy regarding subrecipients eligible to receive Section 5311 Program funds within the State of Arkansas is consistent with Federal program guidelines. Eligible subrecipients under the Section 5311 Program include State agencies, local public bodies, and agencies thereof, private nonprofit organizations, Indian tribes, (Indian tribal governments are included in the definition of eligible public bodies, and may also be served by eligible nonprofit organizations), groups and operators of public transportation services. Private for-profit operators (taxi cab companies that offer service outside the operating hours of public transit providers) of transit services may participate in the program through sub-contracts with eligible subrecipients. Such contract opportunities are afforded during the annual application process and when systems are planning service expansions. Local public bodies include municipalities, counties and other political subdivisions of State and public agencies.

In addition, private intercity bus services may receive Section 5311 Program capital (80% federal) and operating (50% federal) assistance to the extent that they provide public transportation which supports the connection between rural areas and the larger regional or national system of intercity bus service.

ELIGIBLE SERVICES AND SERVICE AREAS

Eligible Expenses

The Section 5311 Program provides funding for capital, operating, planning, job access and reverse commute projects, and administration expenses for public transit service in rural areas under 50,000 in population. Planning and job access and reverse commute projects are new eligible expenses under FAST Act; note that States were permitted to use a portion of the administrative set-aside for planning, but now planning is an eligible activity for subrecipients

under this program. The planning activities undertaken with Section 5311 Program funds are in addition to those awarded to the State under Section 5305 and 5339 and must be used specifically for rural areas' needs.

Intercity Bus Transportation

The requirement did not change under FAST Act for each State to spend no less than fifteen percent (15%) of its annual Rural Areas Formula apportionment for the development and support of intercity bus transportation, unless it can certify, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being adequately met. The PTPS may request the Director (Governor's designee) to assign a waiver of the fifteen percent (15%) requirement.

Private intercity bus services may receive Section 5311 Program capital and operating assistance to the extent that they provide public transportation, which supports the connection between rural areas and the larger regional or national system of intercity bus service. The Department will give priority to such services where previous service has been provided by other private carriers and is no longer available and the operating cost is an acceptable ratio.

The Department will implement Section 5311(f)(2) as part of its management of the Section 5311 Program. Approved intercity projects will be included in the annual Section 5311 Program of Projects. The Department will look at the intercity bus transportation needs of the entire State and will consult available providers. Where feasible, intercity bus feeder service may also provide access to intercity connections with rail or air service. The Department will work with neighboring States to ensure coordination of services. The Department will provide available information to FTA or its contractors upon request to support a national evaluation of the implementation of Section 5311(f)(2).

The Department annually advertises in a statewide circulation publication, notifying interested parties offering a public hearing and/or comments.

State Administration

FAST Act provides ten percent (10%) for use of administration, planning, and technical assistance. States may elect to use ten percent (10%) of their apportionment at 100 percent federal share to administer the Section 5311 Program and provide technical assistance to subrecipients. Technical assistance includes: project planning, program management, program development, public transportation coordination activities, and other endeavors the State considers appropriate to promote effective delivery of public transportation to rural areas.

Job Access and Reverse Commute (JARC) Projects

These projects are eligible for funding under the Rural Areas Formula Program. A Job Access and Reverse Commute project is defined as:

“a transportation project to finance planning, capital and operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and related activities, including education, related to their employment, including

transportation projects that facilitate the provision of public transportation services from rural areas to suburban employment locations.”

There is no set-aside or cap under FAST Act for job access and reverse commute projects funded under this section. However, the projects must be for the “development and maintenance” of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and employment-related activities. FTA defines “development of transportation services” to mean new projects that were not in service on October 1, 2012. New job access and reverse commute projects may include the expansion or extension of an existing service, so long as the new service was designed to support the target population consistent with the definition above and the other planning requirements (described below) were met. Such projects are not required to be designed exclusively for these populations.

“Maintenance of transportation services” is identified as the continuation of eligible job access and reverse commute projects that received funding under the SAFETEA-LU Section 5316 JARC Program, which was repealed by FAST Act.

Reverse commute projects are only eligible under this section if they are designed to transport welfare recipients and eligible low-income individuals to and from jobs and employment-related activities. However, as noted above, the services do not need to be exclusively for the target population.

For any projects or project elements that were eligible under the Section 5316 Job Access and Reverse Commute Program, authorized under SAFETEA-LU, will remain eligible, so long as they can be classified as development or maintenance, as described above and comply with the FAST Act definition of a job access and reverse commute project.

Eligibility for Safety Certification Training and Safety Oversight

Recipients of Section 5311 Program funds are permitted to use up to 0.5 percent of their formula funds under the Rural Areas program to pay not more than eighty percent (80%) of the cost of participation for an employee who is directly responsible for safety oversight to participate in public transportation safety certification training. Safety certification training program requirements will be established in accordance with Section 5329.

Joint Section 5307 and 5311 Program Projects

In some localities, a subrecipient receives both Section 5307 and Section 5311 Program funding to provide public transportation for an urbanized area and surrounding rural areas. Section 5311 Program funds are used only to assist the rural area. Due to the circumstances under which an operator could be providing services in both urbanized and rural areas, the local subrecipient develops a reasonable basis for allocating the costs between the two funding sources. This procedure is also to be applied to “joint” capital projects. In the interest of flexibility and coordination, vehicles purchased under either program may be used in any part of a combined urbanized and non-urbanized service area, but capital replacement policies should ensure that program funds are used appropriately. Ridership, operating hours and mileage factors are evaluated to allocate costs.

Limitations

The Department places few limitations upon service areas. Factors considered when an application is processed for funding are: (1) availability of other transportation services in the proposed service area; (2) manageability of the size of the proposed service area; (3) furtherance of a fair and equitable distribution of funds; (4) existing public transit systems; and (5) technical and financial capacity.

To avoid duplication of services and resources, the Department encourages each applicant to include efforts to coordinate Section 5311 Program activities with other transportation providers involving transit service and service areas.

In order to enhance access of persons living in non-urbanized, Section 5311 Program projects may include the transportation of rural area residents to and from urbanized areas. The service area may include destinations across a state line. Operators of interstate service are required to register with the Federal Highway Administration's (FHWA) Office of Motor Carriers and comply with Federal and State laws.

ELIGIBLE ASSISTANCE CATEGORIES

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The principles for determining allowable costs incurred by the subrecipients are for the purpose of the costs that may be incurred and not intended to identify the circumstances or dictate the extent of FTA participation in the financing of a particular program or project. The principles are designed to show that FTA awards bear their fair share of costs recognized under these principles except where restricted or prohibited by statute (2 CFR Part 200.100, (c)).

2 CFR Part 200 Subpart E – Cost Principles indicates the subrecipients are responsible for:

- Ensuring the costs are allowable, allocable and reasonable.
- Each item of cost incurred is for the same purpose.
- Treated consistently in like circumstances either as direct or indirect costs in order to avoid possible double-charging of FTA awards.

Some nonprofit organizations, because of their size and nature of operations, can be considered to be similar to for-profit entities for purpose of applicability of cost principles. Such nonprofit organizations must operate under Federal cost principles applicable to for-profit entities located at 48 CFR 31.2. A listing of these organizations is contained in Appendix VIII of 2 CFR Part 200 – Nonprofit Organizations Exempted From Subpart E – Cost Principles.

State Administration, Planning, Rehabilitation, and Technical Assistance

The State may use not more than ten percent (10%) of its apportioned Section 5311 Program funds, including funds apportioned under Section 5340 but not the Rural Transportation Assistance Program (RTAP) allocation, to administer the Section 5311 Program and to provide technical assistance to subrecipients.

Allowable administrative costs include salaries, overhead expenses, supplies, and office equipment used to administer the program. Allowable technical assistance costs may include project planning, program development, development of vehicle and equipment specifications, management development, coordination of public transportation programs (public and private for-profit and non-profit), and such research as the State may deem appropriate to promote effective means of delivering public transportation service in rural areas. No local share is required for these expenses. The State may pass any portion of these funds on to subrecipients for the same purposes and, at its discretion, may impose a local share requirement.

With several exceptions, FTA limits the eligibility of planning costs to funds available within the ten percent (10%) State administration cap. Planning and marketing for intercity bus services can be funded with a twenty percent (20%) local share and is not subject to the ten percent (10%) cap on State administrative expenses. Similarly, funds transferred from Section 5307 can be used for planning with a twenty percent (20%) local share and are not subject to the ten percent (10%) administrative cap. However, flexible funds transferred into the Section 5311 Program can be used for planning with no local share but are subject to the ten percent (10%) administrative cap on planning and other State administration activities.

While the State may also use RTAP funds for many administrative and technical assistance activities it is more appropriate to use State administrative funds for technical assistance activities directly related to the administration of the Section 5311 Program, (e.g., conducting procurements and monitoring subrecipients). The State should use RTAP to deliver training and technical assistance needed by rural providers.

Capital Expenses

Eligible capital expenses include the acquisition, construction, and improvement of public transit facilities and equipment needed for a safe, efficient, and coordinated public transportation system as well as certain other expenses classified as capital in Section 5302 General and Intermodal Programs.

Examples of eligible capital expenses include, but are not limited to:

- buses;
- vans or other paratransit vehicles;
- radios and communications equipment;
- passenger shelters, bus stop signs, park and ride lots, and similar passenger amenities;
- wheelchair lifts and restraints;
- vehicle rehabilitation, remanufacture, or overhaul;
- preventive maintenance;
- operational support such as computer hardware or software;

- installation costs, vehicle procurement, testing, inspection and acceptance costs;
- construction or rehabilitation of transit facilities including design, engineering, and land acquisition;
- facilities to provide access for bicycles to transit facilities or equipment for transporting bicycles on transit vehicles;
- lease of equipment or facilities when lease is more cost effective than purchase. Note that when lease of equipment or facilities is treated as a capital expense, the State must establish criteria for determining cost effectiveness, in accordance with FTA Regulations, “Capital Leases,” 49 CFR part 639;
- the capital portion of costs for service provided under contract. The capital cost includes preventive maintenance, only privately owned assets are eligible. The recipient may not capitalize under the contract any capital assets (e.g., vehicle, equipment, or facility) that have any remaining Federal interest in them, or items purchased with State, or local government assistance. Similarly, recipients may not capitalize under the contract any costs incurred delivering services ineligible for FTA assistance (e.g., charter or school bus service). Recipients may compute capital costs as a fixed percentage of the contract without further justification. Appendix G provides additional information on the capital cost of contracting.
- joint development improvements expressly include the following: (1) commercial and residential development; (2) pedestrian and bicycle access to a public transportation facility; (3) construction, renovation, and improvement of intercity bus and intercity rail stations and terminals; and (4) renovation and improvement of historic transportation facilities. These and other joint development improvements will be eligible for FTA funding if they satisfy the eligibility criteria set forth at 49 U.S.C. 5302(a)(1)(G). Final guidance for joint development projects was published in the *Federal Register* on February 7, 2007. (72 FR 5788).
- the introduction of new technology, through innovative and improved products, into public transportation;
- mobility management consists of short-range planning, management activities and projects for improving coordination among public transportation, and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental authority, but excludes operating expenses;
- crime prevention and security; including projects to refine and develop security and emergency response plans; projects aimed at detecting chemical and biological agents in public transportation; the conduct of emergency response drills with public transportation agencies and local first response agencies; and security training for public transportation employees; but excluding all expenses related to operations, other than such expenses incurred in conducting activities described above;
- transit-related Intelligent Transportation Systems (ITS); and

- Americans with Disabilities Act of 1990 (ADA) paratransit service's operating costs as a capital expense may not exceed ten percent (10%) of the State's annual apportionment of Section 5311 Program funds, and recipients may only use Section 5311 Program funds for this purpose when they comply with ADA requirements for both fixed route and demand-responsive service, when provided.

Rehabilitation Expenses

Requests for rehabilitation of existing transit vehicles must include the most recent annual inspection form. Transit vehicles, that the Department currently holds a lien, may be considered for rehabilitation when meeting certain criteria, for example:

- A 5-year vehicle (Light-Duty Mid-Sized Bus); (10-Passengers and up) must be 2.5 years old and have a minimum life of 75,000 miles. In addition, submit the most recent annual inspection that indicates the vehicle is not road worthy.
- A 12-year vehicle (Large Heavy-Duty Transit Bus); (27-Passengers and up) must be 6 years old and have a minimum life of 250,000 miles. In addition, submit the most recent annual inspection that indicates the vehicle is not road worthy.

The Department strongly encourages subrecipients to purchase non-rolling stock capital projects within six months of project award or authorization to proceed.

Operating Expenses

Operating expenses are those costs directly related to system operations. At a minimum, States must consider the following items as operating expenses: fuel, oil, drivers' salaries and fringe benefits, dispatcher salaries and fringe benefits, and licenses.

States may, at their discretion, treat maintenance as either operating or capital expenses for Section 5311 Program funding purposes. Similarly, for the Section 5311 Program only, FTA gives States the option of classifying certain other expenses as either operating or non-operating expenses. Even if these expenses are eligible for funding under Section 5311 Program at the capital match, the provider may classify these funds as operating expenses in its internal accounting system, under generally accepted accounting principles. However, for funding purposes, the State may not count the same cost twice.

Net operating expenses are eligible for assistance. Net operating expenses are those expenses that remain after the provider subtracts operating revenues from eligible operating expenses. States may further define what constitute operating revenues, but at a minimum, operating revenues must include farebox revenues. Farebox revenues include fares paid by riders who are later reimbursed by a human service agency or other user-side subsidy arrangement. Farebox revenues do not include payments made directly to the transportation provider by human service agencies to purchase service. However, purchase of transit passes or other fare media for clients would be considered farebox revenue. A voluntary or mandatory fee that a college, university, or similar institution imposes on all its students for free or discounted transit service is not farebox revenue.

The State may include operating assistance projects of up to two years' duration in its annual program of projects. FTA extends pre-award authority for operating costs incurred as of the beginning of the local fiscal year but before grant award.

Project Administrative Expenses

Under the Section 5311 Program, the State may treat project administrative expenses incurred by a local provider as a separate cost category from either capital or operating expenses. This allows States to consider administrative expenses as “non-operating” expenses. FTA may fund non-operating expenses up to the eighty percent (80%) Federal share or more if the State is eligible for the sliding scale of Federal share.

Eligible project administrative costs may include, but are not limited to: general administrative expenses (e.g., salaries of the project director, secretary, and bookkeeper); marketing expenses; insurance premiums; office supplies; facilities and equipment rental; standard overhead rates; and the costs of administering drug and alcohol testing. Interest on short-term loans for operating assistance is eligible as project administration if it is approved by the State. Additionally, administrative costs for promoting and coordinating ridesharing are eligible as project administration if the activity is part of a coordinated public transportation program.

FEDERAL MATCHING REQUIREMENTS

Capital and Project Administration

The Federal share of eligible capital and project administrative expenses may not exceed eighty percent (80%) of the net cost of the project. There are exceptions to the eighty percent (80%) match for capital projects however; Arkansas programs utilize only eighty percent (80%).

Operating Expenses

With respect to operating expenses, 49 U.S.C. 5311(g)(2) provides that the Federal share shall not exceed 50 percent (50%) of the net operating cost of the project.

Under Subsection 5311(g)(3)(A), funds received pursuant to a service agreement, contract agreement or memorandum of understanding with a State or local social service agency or a private social service organization may be used as local match.

Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide local match for Section 5311 Program operating assistance. In either case, the cost of providing the contract service is included in the total project cost.

The manner in which a subrecipient applies income from human service agencies to a project affects the calculation of net operating expenses and, therefore, the amount of Section 5311 Program operating assistance the project is eligible to receive. A State's method of sub-allocating its apportionment among its subrecipients is a discretionary action, subject only to the statutory requirements. While a State may not prohibit a subrecipient from using income from human service agency contracts as a source of local match according to Subsection 5311(g)(5), the State may elect to regard the degree to which a subrecipient demonstrates local financial to the project from other sources of local funds as a rating factor in its discretionary allocation decisions.

State Administration and RTAP

Local share is not required for State administration and RTAP.

Other Factors

The Department adheres to audits of State, Local Governments, and Non-profit organizations, June 30, 1997; Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act of 1996, P.L. 104-156; Uniform Guidance 2 CFR 200 as amended; FTA Circular 9050.1D (09-07-95), FTA Circular 9040.1G. Specific cost questions regarding Section 5311 Program that had been referred to the Federal Highway Administration prior to October 1, 1983, are incorporated into the cost principles used by the Department.

LOCAL SHARE AND LOCAL FUNDING REQUIREMENTS

Participation

Under subsection 5311 (g)(3), a local match for the remainder of net project costs:

- may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;
- may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the [U.S.] Department of Transportation) that are eligible to be expended for transportation; or
- notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal Lands Highway Program established by Section 204 of Title 23.

Local share for both non-operating and operating expenses should be provided in cash or cash equivalent. The local share may also be made up of unrestricted funds from other federal programs. Funds generated through service agreements with social service organizations may be treated as local match or project income used to offset operating expenses.

The Department requires that eligible applicants provide no less than twenty percent (20%) of the net capital and administrative costs, and no less than fifty percent (50%) of the net operating deficit from local resources and/or unrestricted federal funds.

Certain expense items should be classified as administrative, operating, or capital items. A listing of these expense items by classification is provided in the Monitoring and Evaluation Procedures Manual. For any expense item not shown, the Department will determine, on a case-by-case basis, whether the item is an administrative or operating expense.

In 2001 the Arkansas General Assembly passed Act 949 to assist rural and urban public transit providers receiving FTA funds. This funding has continued annually with distribution based upon a formula developed by the Department and may be used as local match.

PROJECT SELECTION CRITERIA AND METHOD OF DISTRIBUTING FUNDS

Project evaluation and the distribution of funds is based on a fair and equitable process among any and all eligible subrecipients as defined in FTA Circular 9040.1G and in compliance with Title VI, Americans with Disabilities Act, EEO, and Section 105(f) requirement, and as specified in 49 CFR Parts 27, 37, and 38. Priority is given to existing subrecipients who are grandfathered in annually to protect assets. Subrecipients are required to submit applications that propose service, service area, and costs. The Department will review the applications and make recommendations on service and will support only those costs that meet the “reasonable and necessary” test of Uniform Guidance 2 CFR 200. The other considerations of project evaluation are: (1) availability of funds, and (2) a fair and equitable distribution of funds among existing systems.

The Department is committed to analyze the feasibility of new systems. To allow for the development of new properties, criteria such as the following are considered: (1) cost efficiency (2) service effectiveness (3) technical and financial capacity and (4) availability of Federal funding.

The PTPS uses a Multi-Year Allocation Plan consistent with Federal Transit laws and estimated annual apportionments as a guideline. Subrecipients, projected expenditures, and projected Section 5311 Program allocations base the Plan on historical expenditures.

INTERCITY BUS TRANSPORTATION

Private intercity bus services may receive Section 5311 Program administrative, capital and operating assistance to the extent that they provide public transportation, which supports Arkansas connections between rural areas to urbanized, population centers within an urbanized area or a national system of intercity bus service. The Department will give priority to such services where previous service in Arkansas has been provided by other private carriers and is no longer available and the administrative/operating deficit is an acceptable ratio. An applicant documented as non-responsive or non-compliant may not be considered for funding for a three-year period. The Department may debar any intercity carrier in addition to any carrier listed on the federal register as being debarred. The Department will review and approve all intercity carriers' annual audits. The Department will not consider a self-insured program.

The Department will implement Section 5311(f)(2) as part of its management of the Section 5311 Program. Intercity projects will be included in the annual Section 5311 Program of Projects. The Department will look at the intercity bus transportation needs of the entire State and will consult available providers. Where feasible, intercity bus feeder service may also provide access to intercity connections with rail or air service. The Department will work with neighboring States to ensure coordination of services. The Department will provide available information to FTA or its contractors upon request to support a national evaluation of the implementation of Section 5311(f)(2).

The Department will not expend the specified percentage of its apportionment for an intercity bus program in any year in which the Governor certifies to the Secretary of Transportation that, "the intercity bus service needs of the State are being adequately met." The Department reserves the flexibility of the "waivered intercity allocation" to be used in the provision of intercity service, which may be identified during the year.

The Department annually advertises in a statewide circulation publication and on its website, notifying interested parties of the Program of Projects and offering a public hearing and/or comments.

STATE RURAL TRANSIT ASSISTANCE PROGRAM (RTAP)

Program Goals and Objectives

The overall goal of the Department is to create a program, which will develop the technical capabilities of rural transit operators. The goal is targeted to both the administration and operation of the transit agencies. The goal will be accomplished through the development of

projects under four main areas: (1) training; (2) technical assistance, (3) research; and (4) support services.

Roles and Responsibilities

As the designated recipient to administer the FTA Section 5311 Program, the Department will likewise administer RTAP. The PTPS within the Department will have direct responsibility for RTAP program development, monitoring, and administration.

Eligible Recipients and Funding Requirements

The Department will be the applicant agency for RTAP funds and may use 100 percent federal funds for projects. However, the Department will, on a case-by-case basis, determine if local match will be used for project funding and will also use its existing ten percent (10%) of Section 5311 Program funds to administer the RTAP Program.

Program Development

The PTPS staff will provide maximum opportunities for participation of non-urbanized transit operators, both public and private, in the RTAP projects. Participation will be accomplished through the following methods:

The Department executes an annual grant agreement with the Arkansas Transit Association (ATA) to provide the RTAP Training Program. ATA's Board of Directors act as the Arkansas RTAP Advisory Committee and coordinates specific projects and their development. ATA Board of Directors consists of rural public transportation providers, urban transportation providers, a representative from the enhanced mobility of seniors and individuals with disabilities community, and at-large members.

The public participation process will be conducted on an annual basis prior to the submission of the Department's annual Work Program.

Program Delivery

The Department will maintain flexibility in the RTAP program delivery to transit operators. A range of mechanisms will be used for this purpose, which may include any of the following:

- ATA submits an annual proposal to provide RTAP Training through their staff, which includes: on-site transit related training, awareness training, Train-The-Trainer Program, etc. ATA maintains a video library of training tapes and DVDs and loans these resources with specialized equipment for passenger assistance training.
- Assistance by in-house State staff;
- Contracts with private consultants, universities, nonprofit organizations, state transit associations, or other organizations;
- Contracts for administration of the state RTAP program or particular elements of it by the state Technology Transfer Center. These centers commonly referred to as "T-Square

Centers” have been established at universities in every state under the Federal Highway Administration’s (FHWA) Local Technical Assistance Program.

- Support of peer-to-peer networks of individuals to provide assistance to each other;
- Interagency agreements with other State agencies, both within the state and in other states; and
- Scholarships or tuition and expenses to individuals to attend training courses and workshops.

While RTAP assistance is targeted for rural and human service transit providers, many urbanized transit systems benefit from this program as well.

Payment and Reporting Procedures

The Department uses the Letter of Credit procedures for the Section 5311 Program. The same method will be used for RTAP drawdowns. Changes in RTAP projects will be identified in the Section 5311 Annual Program of Projects. However, the Department will maintain records of all RTAP funds for each subrecipient, by purposes.

Standard Requirement

The Department will comply with all Standard Assurances, as cited in FTA Circular 9040.1G. These assurances may be certified as often as annually within the Department’s Transit Management Oversight Checklist.

ANNUAL PROGRAM OF PROJECTS DEVELOPMENT AND APPROVAL PROCESS

The Department will accept applications, in conformance with the Department’s Section 5311 Program Application Procedures Manual for Section 5311 Program Assistance, from any eligible applicant. On a case-by-case basis, an extension may be approved. The Department will provide technical assistance to any eligible applicant who contacts the PTPS. Applications are submitted on an annual basis from existing subrecipients in accordance with the timetable shown below. Potential new systems are required to submit an application in the same manner as existing systems. The Department will accept and review these applications in a reasonable and expeditious time frame as agreed upon between the Department and the potential recipient.

APPLICATION PROCESS

- | | |
|-----------------------------------|--|
| 1. Submit Application | 60 Days prior to Anniversary
(end of current contract period) |
| 2. Internal Review and Reply | 30 Days after #1 |
| 3. Request Interview | After #2 |
| 4. Conduct Interview if needed | After #3 |
| 5. Resubmit Application if needed | After #4 |

The Department has implemented a performance measurement system, which is included in the application, reporting forms, and monitoring process. This system should provide the applicant and the Department the data necessary to properly assess the efficiency and effectiveness of each route. With a maximum demand upon Section 5311 Program funds, inefficient and/or ineffective routes will have to be justified or eliminated. The Department will modify its performance measures as the national measures are developed as required by FAST Act.

The Department will continue to submit an application for FTA Section 5311 Program funds on an annual basis in behalf of the rural public transit systems and intercity bus transportation in Arkansas. This annual Program of Projects (POP) will reflect the level of estimated funding to each agency. In addition, the POP will reflect the request for transferred Section 5311 Program funds. Funds programmed to support intercity bus transportation will be grouped separately in accordance with Section 5311(f)(2).

A transfer of funds may be made to projects within the program to balance the project's needs or to streamline the administration of the award per FTA C 9040.1G.Chapter III. 1.d. The Department initiates the transfer of funds by notifying the FTA regional office of the intent. Notices to transfer funds should include the following:

- Information on the entity the funds were originally allocated to.
- The amount of funds to be transferred.
- The fiscal year in which the funds were apportioned.
- Program section
- Specific projects where the funds are to be applied.
- Contact information if questions arise and need to be addressed.

It may be necessary to transfer Section 5307 funds into the Section 5311 Program or Section 5311 Program funds into the Section 5307 Program. In the case of transferring Program funds, the process described below will be followed.

- The Department will determine the availability of funds.
- Consult with local officials and/or public transit agencies about transferring of available funds. However, the Department will use its discretion in determining what funds are to be transferred among Programs. The transfer of Section 5307 funds may include transferring any determined amounts to existing Section 5307 recipients or into the Section 5311 Program.
- Request that FTA transfer the funds as determined above. The Department may transfer Section 5307 funds without consultation of local officials within the last 90 days in which the funds are available for obligation.

COORDINATION

In 1993 the Arkansas Legislature passed Act 353, the Arkansas Public Transportation Coordination Act. “It is the purpose and intent of this act to have a general public transportation policy which encourages the planning, development, implementation, operation, and evaluation of efficient and coordinated transportation systems, both public and private.” A Coordinating Council was established to act as a clearinghouse and to issue recommendations concerning local, state, and federal agencies and public transit agencies to ensure coordinated and efficient use of funds.

Each program manager is responsible for determining and monitoring coordination efforts. On an annual basis, the Department publishes a public notice offering a public hearing on the proposed Program of Projects. When possible, this notice is published in a statewide minority owned publication and on the Department’s website. Each program manager is available to meet with transportation agencies as needed to discuss coordination opportunities.

To the extent feasible, governmental agencies and nonprofit organizations that receive assistance from other Federal agencies for non-emergency transportation services shall participate and coordinate with FTA subrecipients in the design and delivery of transportation services and be included in planning for these services. To ensure compliance, efforts are monitored during the “Arkansas Public Transit Management Review”.

The goal of the above listed agencies is to coordinate regional transportation services. The Department, in consultation with the State’s Metropolitan Planning Organizations (MPOs) 5310, and Section 5311 Program providers prepared the “Arkansas Statewide Transit Coordination Plan: 2012”. The document was approved in November 2012 by the Arkansas Coordination Council. It satisfies the requirements under FAST Act and will be updated in 5 years.

Further, an applicant for Section 5311 Program funds shall transmit a copy of such application to the appropriate local and state clearing houses, with a completed Federal Assistance Form 424. The applicant must forward a copy of the Clearing House confirmation letter (when received) to the Department. Send the transmittal letter with the Section 5311 Program application to the AHTD – Public Transportation Programs Section; P.O. Box 2261; Little Rock, AR 72203.

PRIVATE SECTOR PARTICIPATION

The Department has established procedures consistent with FTA Guidelines and intent to allow the private sector the maximum opportunity to participate in public transportation activities. To ensure compliance, efforts are monitored during the “Arkansas Public Transit Management Review”. The following paragraphs outline the steps necessary for Private Sector participation.

- Notification: Local entities should provide notice to transportation providers, including private for-profit, private nonprofit and public agencies, regarding proposed services and opportunities for private transportation providers to participate in order that they may present their view concerning the development of local plans and programs. To the extent possible, it is also desirable to make known in advance the criteria, which will be taken into account in making public/private service decisions.

- Coordination: Whenever possible, Section 5311 Program subrecipients should coordinate with other local entities: public, private, and nonprofit, in the provision of coordinated transportation services, in order to enhance opportunities for private sector participation and facilitate the accomplishment of the other provisions of this policy. All proposed projects would be included in the Department's annual Statewide Transportation Improvement Plan (STIP).
- Early Consultation: A fair appraisal of private sector views and capabilities should be assured by affording private providers an early opportunity to participate in the development of new transportation services. Private providers should be given opportunity to present their views concerning the development of local transportation plans and programs and to offer their own service proposals for consideration.
- Consideration of Private Sector Service: When the need for new services is defined or services are significantly restructured, consideration first should be given to whether private carriers could provide such service in a manner which is consistent with local objectives with or without public subsidy. Where feasible such consideration should be given pursuant to a competitive bid process if services involve public subsidy.
- Periodic Review of Existing Services: All transit services should be periodically reviewed to determine if they can be provided more efficiently by the private sector.
- Barriers to Private Participation: If there are local impediments to competition by private providers, public officials should encourage possible adjustments in local regulations or existing service requirements in order to permit private carriers to perform service with or without subsidy.
- Comparison of Costs: When comparing the service proposals made by public and private entities, the fully allocated cost of public and nonprofit agencies should be disclosed. Subsidies provided to public and private nonprofit carriers, including operating subsidies, capital grants and the use of public facilities, should be reflected in the cost comparisons. If a private for-profit carrier received public subsidies, these should be indicated.
- Local Decision Making: FTA and the Department recognize that in the local decision making process, factors other than cost must also be considered. Such factors may include safety considerations, services quality and reliability, and source of volunteer support. Nothing in this policy guidance is intended to impose particular results on that local decision making process, but rather to ensure that private for-profit providers can compete fairly with public and nonprofit providers when decisions are being made, and that decision makers are aware of all cost involved in service provision.
- Complaint Procedures. Since the underlying spirit of the FTA Act is to afford communities maximum flexibility in local decision-making, it is appropriate that questions dealing with the fairness of local procedures and decisions be addressed at the local level. Accordingly, a local mechanism, preferably independent, should be devised for resolving disputes in a manner, which assures fairness to all parties. In the absence of a locally developed process, the State may prescribe and/or be party to a local process. Complaints, which cannot be resolved at the local level, should be resolved at the State level. The Department will use the procedure for complaints as outlined in the Appeal

Process; however, all meetings, correspondence, etc. will be on an informal basis. Any unresolved complaints will then initiate the formal appeals process.

- **FTA Review of Complaints.** FTA will entertain complaints from private enterprise organizations only upon procedural grounds based on the following claims: that the local project development process has not established procedures for the maximum feasible participation of private transportation providers; or that the local procedures were not followed; or that the State appeals procedures do not provide for fair resolution of local disputes. FTA will not review disputes concerning local decisions regarding service or who should provide the service. Nor will FTA entertain procedural protest prior to a disposition of complaints at the local and State level.
- **Documentation.** Subgrantees are expected to maintain public records that document private participation in the project development process and the rationale used in making public/private service decisions. This information, along with State documentation, will be the primary evidence of compliance with the policy if a complaint is sent to FTA.

A) **Private Nonprofit Organizations.** are exempt from taxation under 26 U.S.C. 501(c) 3, or have been determined under State law to be private nonprofit entities. These organizations are encouraged to participate in the competitive process to select service providers. Nothing in this guidance is meant to exclude private nonprofit organizations from the opportunity to compete to provide service. Rather competition is enhanced by the inclusion of all potential service providers, whether they are private for-profit, private nonprofit, or public agencies. Where private nonprofit agencies are the subrecipients of Section 5311 Program funds, they have the responsibility for complying with this guidance.

B) **Compliance of the Private Participation Policy** is included in the Standard Assurances required from any applicant. The Department will provide guidance about the private sector policy and how it may be implemented as requested.

C) The Department has prepared an **appeals process** to resolve any and all complaints that may arise from the administration of the Section 5311 Program. This appeals process is contained in the Policy and Procedures Manual.

STATE PROGRAM MANAGEMENT

Procurement (updated 10-1-2018)

Pursuant to Uniform Guidance 2 CFR 200, the Arkansas Purchasing Law and Regulations and the Department's Accounting Manual. The following purchase limits are required:

Up to \$10,000 Open Market/Small Purchases (however, competition should be used to the maximum extent practical and price analysis performed.)

From \$10,001 to \$75,000 Competitive Unsealed/"Quotation" Bids (Quotes from at least three sources by direct mail, telephone, e-mail, or written form.)

More than \$75,001 Awarded by Competitive Sealed Bids Only. (This requirement is waived for the bulk purchase of fuel but, quotes must be obtained with each purchase.)

To further assist Section 5311 Program subrecipients, the PTPS developed and distributed the Section 5311 Program Policies and Procedures Manual, which encompasses all existing laws and regulations. The manual is used to assist properties in developing proposals, implementing bid requests and purchasing in a reasonable and orderly manner.

Third Party Contract Management

The PTPS provides technical assistance in the form of review and comment upon all requests for bids or proposals, which a Section 5311 Program subrecipient prepares for distribution. This process allows the PTPS to ensure: (1) that potential bidders have not been precluded by bid specifications; and (2) that the technical specifications will ensure the transit property that goods or services selected are the same as what is needed. [FTA Circular 4220.1F provides additional guidance to the Department and the subrecipient in third party contracting.]

Once bids are opened and reviewed, the property's recommendation for selection is sent to the PTPS, along with copies of all bids or proposals received. The Department's contract with the Section 5311 Program subrecipients requires that the PTPS be allowed concurrence in the selection of third party contractors.

The PTPS, therefore, has the opportunity to ensure that the selected bidder: (1) is in compliance with the bid specifications; (2) meets all application requirements and regulations; and (3) is not on the Unapproved Bidders list (debarred); and (4) has met Section 105(f) of the Surface Transportation Assistance Act of 1982 (STAA of 1982) concerning disadvantage businesses requirements. The Department will visually review the national SAMS website prior to awarding any contract to verify the contractor is not on the debarred list. The results of the review will be printed and included in the contract documents along with the Third Party Contract Checklist (specifically chapter 8). The Department will inform all subrecipients of these required procedures and ensure they are followed.

To ensure compliance, efforts are monitored during the "Arkansas Public Transit Management Review".

Vehicle Acquisition

The Department has implemented a policy, which will require inspection of a new vehicle before it leaves the dealership (exceptions may be made with approval) by PTPS staff personnel prior to final delivery.

Emphasis will be placed on the following: Compliance with specifications, Buy America requirements, malfunctions and defects, and Federal safety standards. The participating dealerships are required to notify PTPS staff when a new vehicle has arrived and is ready to be inspected prior to delivery to the Department.

The Department is the primary purchaser of vehicles, except for specialty transit vehicles, where the subrecipient may be the purchaser. In this case, the subrecipient must submit bid specifications to the Department for approval. The Department will also review and approve the manufacturer selection prior to bid award.

Property Management and Disposition

Whenever Sections 5309, 5311 or 5339 federal funds are used to purchase property a Capital Inventory is required of all property and equipment. The inventory is updated whenever a request for capital reimbursement is made.

The Department continually updates the capital inventory and keeps a copy on file. This inventory itemizes all equipment/items that have a useful life of more than two (2) years and an acquisition cost that exceeds \$500 per unit. Disposition and useful life standards of vehicles and other capital inventory items are handled in accordance with 49 CFR Part 18 and other FTA Circulars 5010.1E and 9040.1G.

Section 5311 Program capital inventory items that have met its useful life may be retained, sold or otherwise disposed of with no further obligation to FTA. The Policy and Procedures Manual contains the Useful Life and Disposition Schedule for all equipment and vehicles. However, all proceeds from the disposition of property must remain in use for the continuance of that public transit purpose. Capital inventory items purchased with Section 5339 funds, when proceeds exceed \$5,000 the eighty percent (80%) (Federal share) amount of the proceeds must be returned to the Department according to FTA guidelines. Capital items are disposed of in one of two methods: 1) Public auction conducted by the Department or 2) Solicitation of sealed bids from any interested party. The method used is determined by mutual consent between the subrecipient and the Department. A Property Control Form must be completed and submitted to the Department.

Construction or Renovation of Facilities (Real Property)

The PTPS analyzes applications for construction or renovation of facilities on a case-by-case basis. The applicant must be an approved Section 5311 Program property, and must submit information concerning: (1) the need for a facility or improvements to a facility; (2) justification for building or renovation; (3) a cost analysis between leasing, purchasing, building or renovation; and (4) feasibility study of the proposed project. The PTPS will develop a recommendation on the project and submit the application to FTA for approval, if the construction project exceeds \$500,000.

If a project, which involves the purchase of property, is approved, FTA Circular 5010.1E and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (49 CFR Part 24 - March 2, 1989) are followed. The PTPS will place a lien on all real property.

Architectural and engineering plans, including cost estimates, must be submitted and approved, prior to the beginning of any construction. All work of \$50,000 (or more) performed by third-party contractors must be advertised for bids or request for proposals (RFP), and comply with the provisions of Section 105(f) of the Surface Transportation Assistance Act (STAA). All required Assurances and Certifications must be on file from both the prime contractor and any subcontractor. Certified Disadvantaged Business Enterprises will be encouraged to participate in all construction phases with a minimum goal, which is established on a project specific basis of the contractible amount of the project. All construction projects will follow the Department's procedures. To ensure compliance, contracts are monitored throughout the process.

Accounting Systems, Audit and Close-out

Prior to an applicant for Section 5311 Program assistance being approved, a risk assessment along with a pre-award audit is conducted by the Department. This audit assures the PTPS that the applicant has the requisite financial capabilities to operate a project. Reimbursements are made on a cost basis (unless otherwise predetermined).

Each approved Section 5311 Program subrecipient has a line item for the cost of an independent audit. The audit is to be performed annually and must be submitted to the PTPS within thirty days of receipt by the property.

The PTPS requests that the External Audit Section of the Department's Fiscal Services Division perform a closeout audit.

The external auditors may use the independent audit as a reference. The closeout audit is requested as soon as the Section 5311 Program recipient or project notifies the PTPS that the project or contract period is complete and all charges have been claimed. The Office Coordinator notifies Program Managers when a grant has been expended and Program Managers will notify subrecipients of grant closeout and transition.

Reporting, Monitoring and Review

Reports are required from each Section 5311 Program subrecipient on a monthly basis. The reports are included in the Monitoring and Evaluation Procedures Manual and require vehicle and financial data.

Each reporting form is based upon the projected activity contained in the property's application. The actual performance figures are analyzed to determine cost effectiveness and service efficiency of the transit system as a whole, and assists in monitoring progress.

Standards

In addition to these standards, the Department requires that the transit system maintain an acceptable system-wide operating ratio. The use of performance measurement standards is a way to achieve this objective. Also, each transit system is encouraged to develop a diversified service system (commuter, contract, medical, etc.).

MAINTENANCE

All subrecipients are subject to periodic on-site inspections of vehicles and facilities, including maintenance of ADA accessibility features, as described in the Monitoring and Evaluation Manual. Subrecipients are required to follow FTA Circular 5010.1E and have a facility plan and a vehicle maintenance plan. The vehicle maintenance plan, which would include, but not be limited to, the following:

- Adopting the Department and manufacturers suggested preventative maintenance schedules, including warranty compliance.

- Recording and maintaining files on preventative maintenance (PM) and repairs (including accessibility features). Additional columns have been added to the monthly activity report for recording PM mileage on oil and air filter changes. Compliance and PM oversight will be provided by the Program Manager and the PTPS's vehicle inspectors.
- Recording daily pre-trip vehicle inspections, in particular ADA equipment.

CIVIL RIGHTS

The Department develops a Civil Rights Plan, which includes Title VI (LEP), EEO, DBE and Environmental Justice programs for the Federal Highway Administration's approval. The Title VI plan is submitted to the Federal Transit Administration (FTA) for approval. The EEO/DBE Section Head is responsible for updating the plan and providing guidance to EEO/DBE Coordinators located in each Division/Section.

The Department's Public Transportation Program Section 5311 Program Managers will receive the required submission of the subrecipient's EEO board approved program(s) including identification of the subrecipient EEO Officer and identify a method to avoid potential conflicts of interest. Once received, 5311 Program Managers will electronically forward the subrecipient's EEO programs to the Department's EEO/DBE Section Head for review and compliance with FTA EEO Program components. The Department's EEO/DBE Section Head will determine if the subrecipient's EEO Program is in compliance and notify Section 5311 Program Managers in writing that the EEO Program meets FTA threshold requirements. After approved notification has been received, the subrecipient's EEO Programs are acceptable for four (4) years; and, will be monitored for compliance, as often as annually, which may coincide with the application of Section 5311 subrecipients.

Subrecipients are required to sign the Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements. These Certifications are on file with the Department. The following procedures and methods are used to monitor compliance with all applicable requirements and regulations pertaining to the subrecipient of Section 5311 Program funds. FTA Circulars 4702.1B and 4703.1

Title VI, (LEP) Executive Order 13166, EEO and DBE

The Department assures compliance with Title VI (LEP), EEO and DBE to provide an avenue for complaints and grievances. A list of complaints and grievances and any action taken is kept on file by the Department and updated every three years as part of the Work Program and Cost estimate. Section 5311 Program subrecipients are required to have an ADA Complaint form available to the public on their respective websites. Subrecipients are also required to report to the Department during the annual application process any Civil Rights grievances filed during the previous year. If Civil Rights complaints continue to reoccur to any particular subrecipient, the Department's EEO office is asked to investigate the complaint and the subrecipient program.

DBE/WBE contracting opportunities are monitored by submission of a monthly reporting form, see Monitoring and Evaluation Procedures. The Department has established reporting forms that identify procurement opportunities. These forms also reflect the subrecipients' contacts with DBE firms during the procurement process. This information is accessed for preparing State and Federal reports. Each subrecipient observes an overall goal, which is established every three years by the Department of all contractible opportunities, and show "good faith efforts" in

meeting this goal. In addition, whenever contractual opportunity exceeds \$250,000 or more (Federal) a DBE goal will be established and stated in the RFP. The Department also certifies DBE firms and publishes a Directory on a monthly basis. To ensure compliance, efforts are monitored using the DBE Participation and On-site Inspection forms included in the Monitoring and Evaluation document. The Participation form identifies the DBE Contractors/Sub-Contractors and services to be performed. The On-site Inspection form is utilized during the construction phase and completed by an on-site inspector to ensure that the DBE is performing the contracted work.

Environmental Justice

Executive Order 12898 requires subrecipients to address environmental justice in the delivery of transportation services. There are three fundamental environmental justice principles:

- 1) To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
- 2) To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- 3) To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

Transportation Services For Individuals With Disabilities

Service must be provided to individuals with disabilities which is reasonable by comparison with the service provided to the general public and which meets a significant fraction of the actual transportation needs of such persons within a reasonable time period. 49 CFR 27.9, *“Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.”*

Each public entity operating a fixed route system shall provide Paratransit or other special service (complimentary Para transit 0.75 miles to either side of fixed routes) to individuals with disabilities that are comparable to the level of service provided to individuals without disabilities who use the fixed route system.. 49 CFR 37 Subpart D, *Acquisition of Accessible Vehicles by Public Entities*; Subpart E, *Acquisition of Accessible Vehicles by Private Entities*; and Part 38, *Accessibility Standards for Transportation Vehicles*.

SECTION 504 AND AMERICANS WITH DISABILITIES ACT REPORTING

The Department has adopted the final rule implementing the transportation provisions of the Americans with Disabilities Act (ADA). Section 5311 Program subrecipients must comply with 49 CFR Parts 27, 37 and 38. The rule contains provisions on acquisition of accessible vehicles by private and public entities, requirements for complementary paratransit service by public entities operating a fixed route system, and provision of nondiscriminatory accessible transportation service. The Department will monitor subrecipient compliance during annual application process and by reviewing monthly performance reports.

CHARTER RULE/INCIDENTAL SERVICE

Each subrecipient certifies compliance of charter regulations as part of their annual standard assurances. Notification of a subrecipient's intent to provide charter service is contained in the annual application. The Department ensures that procedures outlined in the 49 CFR Part 604 are followed. Any proposed charter service must be incidental to the provision of transit services to the general public or the proposed service area. All costs will be recovered for Charter Service and are not eligible for reimbursement under the Section 5311 Program. To ensure compliance, efforts are monitored during the "Arkansas Public Transit Management Review"

MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS

Public transportation service providers receiving Section 5311(c) or Section 5310 Program funds may coordinate and assist in regularly providing meal delivery service for homebound individuals, if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

SCHOOL BUS PROTECTIONS

The Department has established a policy that disallows the exclusive use of vehicles for school services including school tripper service. The policy maintains the "open door" intent of public transportation service. In addition, Section 5311 Program funds are not to be used to purchase school buses. To ensure compliance, efforts are monitored during the "Arkansas Public Transit Management Review".

Section 5323(f) prohibits the use of FTA funds for exclusive school bus transportation for school students and school personnel. The implementing regulation (49 C.F.R. Part 605) does permit regular service to be modified to accommodate school students along with the general public. For the purpose of FTA's school bus regulation, Headstart is a social service, not a school program. FTA subrecipients may operate vehicles, which meet the safety requirements for school transportation, with the exception of flashing lights, stop signs or drop arms, but may not provide exclusive school service.

NATIONAL TRANSIT DATABASE REPORTING

The National Transit Database (NTD) is FTA's primary nationwide database for statistics on the transit industry. Subrecipients of Section 5311 Programs are required by statute to submit data to the NTD. This annual report is submitted by the Department and the data is collected from each subrecipient's monthly claims and reports. The requirement for the NTD report is found in Title 49 U.S.C. 5335.

OTHER PROVISIONS

Public Notice

The Department monitors by assuring that all public notice requirements are being met and that an appeals process is in place.

Environmental Protection

The FHWA and FTA issued joint environmental protection regulations in the Federal Register on August 28, 1987 (23 CFR 771). These regulations require different levels of analysis and documentation for the various projects funded through its programs. It is the intent of the Department to conduct environmental analysis to the level required in the joint regulations on all projects not categorically excluded. The Department's Environmental Division, and/or an architect through the Categorical Exclusion (CE) checklist in cooperation with the FTA Regional Office will conduct any environmental analysis.

Labor Protection Provisions of Section 5333(b)

Applicants for Section 5311 Program assistance shall address the statutory mandated labor protection provisions of Section 13(c) by: (1) executing the special warranty developed by the U.S. Departments of labor and Transportation; or (2) requesting and receiving approval for a waiver of the required protections from the U. S. Department of Labor.

The application must contain: (1) a signed acceptance of the 13(c) warranty; (2) a list of current transportation providers and labor organizations in the service area; and (3) the acceptance of mediation. A waiver request may also be submitted to the U.S. Department of Labor and a copy attached to the application.

The application must contain the applicant's prepared appeal procedure for settling a dispute with an alleged 13(c) - impacted employee. The Department will use the appeals process as shown in the Policy and Procedures Manual in any complaints pursuant to the 13(c) warranty.

Pre-award/Post Delivery Audits of Rolling Stock Purchases

A recipient who will purchase revenue rolling stock with funds obligated by FTA will certify that it has or will conduct pre-award and post-delivery audits to assure compliance with its bid specifications, Buy America requirements, and Federal Motor Vehicle Safety requirements. The Department conducts a pre-award audit of specifications before contract award and a post-delivery audit of the vehicle before it is delivered. Certifications, as required by FTA, are retained on file by the purchaser for each bid.

Bus Testing

The Department will follow the FTA guidelines (49 CFR Part 665) pursuant to New Bus Models. Each new model must have an approved test prior to federal dollars being expended. All bus models must have a 'pass' rating if purchased after October 1, 2014. The Department will serve as a liaison between the manufacturer and FTA as necessary.

Buy America

Section 165 of the Federal Transit Act of 1991 as amended provides that, with exceptions, Federal funds may not be obligated for mass transportation projects unless steel and manufactured products used in such projects are produced in the United States. Section 5311 Program recipients must conform to the FTA regulations, 49 CFR Part 661, and any amendments thereto. Buy America requirements apply to all purchases, including materials or supplies funded as operating costs. Requests for Buy America waivers must be submitted to FTA for approval.

There are four exceptions to this basic requirement. First, the requirement will not apply if its application is not in the public interest. Second, the requirements will not apply if materials and products being procured are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality. Third, the requirement will not apply in a case involving the procurement of buses and other rolling stock (including train control, communication, and traction stock (including train control, communication, and traction power equipment) if the cost of components and subcomponents which are produced in the United States is more than 60 percent (60%) of the cost of all components and subcomponents of the vehicles or equipment, and if final assembly takes place in the United States. Fourth, the requirement will not apply if the inclusion of domestic material will increase the overall project contract by more than 25 percent (25%).

Drug and Alcohol Abuse

Section 5311 Program subrecipients will be required to comply with rules issued by the U.S. Department of Transportation on the subject of drug and alcohol testing per 49 CFR Parts 40 and 665. In addition, pursuant to the Drug Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D), as implemented by 49 CFR Part 32, each subrecipient must certify that it will provide a drug-free workplace.

Subrecipients will also be required to demonstrate participation in random drug and alcohol testing programs as required by U.S. DOT for CDL drivers. One program available to the transportation agencies, in which many participate, is through the Arkansas Transit Association (ATA). ATA assist's Arkansas' public transit systems and private non-profit human service agencies meet U.S. DOT regulations regarding the Procedures for Transportation Workplace Drug and Alcohol Testing (49 CFR Part 40). ATA administers two separate consortiums: one that complies with federal regulations for public transit systems (FTA: 49 CFR Part 655), and another for agencies with commercial motor vehicles (FMCSA: 49 CFR Part 382). At the request of members, ATA also provides a non-DOT testing program. To ensure compliance, an annual audit is performed by the Department's Drug and Alcohol Officer.

Presidential Coin Act

In accordance with Public Law 109-145, beginning January 1, 2008, all transit systems that receive operational subsidies or any disbursement of funds from the Federal Government, shall be fully capable of accepting and dispensing \$1 coins and must display signs and notices denoting such capability on the premises where coins or currency are accepted or dispensed, including on each vending machine.

TRANSIT ASSET MANAGEMENT

Title 49 U.S.C. 5326 establishes a national transit asset management system that will include the “state of good repair”, measuring conditions of assets and establishing performance measures. FTA’s Acting Administrator signed this final regulation on July 12, 2016. The Department will work toward full compliance once the final ruling goes into effect.

SAFETY AND SECURITY

Title 49 U.S.C. 5339 provides FTA with the authority to establish a new framework to oversee the safety of public transportation. The Department will work toward full compliance once the final circular is released.