



MEETING AGENDA

Public Transportation Advisory Committee

Tuesday, October 24, 2017 | 1:00 P.M. (local time)

Texas Department of Transportation (TxDOT)

200 E. Riverside Drive, Room 1A.1

Austin, TX 78704

1. Call to Order.

2. Safety Briefing.

3. Approval of minutes from July 25, 2017 meeting. (Action)

4. TxDOT's Public Transportation Division Director's report to the Public Transportation Advisory Committee (PTAC) regarding public transportation matters.

5. Discussion of public comments regarding proposed rule changes to Title 43, Texas Administrative Code, Chapter 31 and recommended final rule package. (Action)

6. Discussion and development of PTAC Work Plan based on PTAC's guiding principles and comments made at the January 22, 2015 meeting. (Action)

7. Public Comment – Public comment will only be accepted in person. The public is invited to attend the meeting in person or listen by phone at a listen-in toll-free number: 1-855-437-3563 [US] with attendee access code: 598 304 40. The meeting transcript will be placed on the Internet following the meeting.

8. Propose and discuss agenda items for next meeting; confirm date of next meeting. (Action)

9. Adjourn. (Action)

I certify that I have reviewed this document and that it conforms to all applicable *Texas Register* filing requirements.

CERTIFYING OFFICIAL: Joanne Wright, Deputy General Counsel, (512) 463-8630.

AGENDA ITEM 3

MINUTES FOR ADOPTION

Public Transportation Advisory Committee – Teleconference Meeting
200 E. Riverside Drive Room 1A.2, Austin, Texas
July 25, 2017 1:00 P.M.

Committee Members Present and Participating:

Rob Stephens, Chair
J.R. Salazar
Jim Cline

Committee Members Participating via Teleconference:

John McBeth, Vice Chair
Michelle Bloomer
Christina Melton Crain

TxDOT Present and Participating:

Eric Gleason, Director, Public Transportation Division (PTN)
Josh Ribakove, Communications Manager, PTN
Kelly Kirkland – Business Operations Project Manager, PTN

AGENDA ITEM 1: Call to Order.

Rob Stephens called the meeting to order at 1:20 P.M.

AGENDA ITEM 2: Safety Briefing.

Josh Ribakove gave a safety briefing for attendees at 1:21 P.M.

AGENDA ITEM 3: Approval of minutes from June 6, 2017 meeting (Action).

Rob Stephens opened this item at 1:22 P.M.

MOTION J.R. Salazar moved to approve the June 6, 2017 meeting minutes.

SECOND Jim Cline seconded the motion.

The motion passed unanimously at 1:23 P.M.

AGENDA ITEM 4: TxDOT's Public Transportation Division Director's report to the committee regarding public transportation matters.

Eric Gleason began his report at 1:24 P.M. The report began with a legislative update and then addressed de-obligation of existing funds.

AGENDA ITEM 5: Discussion of proposed rule changes to Title 43, Texas Administrative Code, Chapter 31 (Action).

Eric Gleason opened this item at 1:28 P.M. Mr. Gleason presented draft language for Title 43, Texas Administrative Code, Chapter 31, based upon discussion with the committee at previous meetings.

Comments and discussion among Michelle Bloomer, John McBeth, Jim Cline, Eric Gleason, Rob Stephens, J.R. Salazar, and Christina Melton Crain

MOTION Jim Cline moved to accept PTN's draft language with no changes

SECOND J.R. Salazar seconded the motion.

The motion passed unanimously at 2:10 P.M.

AGENDA ITEM 6: Discussion and development of PTAC Work Plan based on PTAC's guiding principles and comments made at the January 22, 2015 meeting (Action).

Rob Stephens led this discussion beginning at 2:15 P.M.

No action taken.

AGENDA ITEM 7: Public Comment

Rob Stephens introduced this item at 2:16 P.M.

There were no public comments.

AGENDA ITEM 10: Propose and Discuss Agenda Items for Next Meeting; confirm date of next meeting (Action).

Rob Stephens initiated and led this discussion beginning at 2:17 P.M. No agenda items were proposed.

The next meeting is scheduled for Tuesday, October 24, 2017 at 1 P.M. Location TBD.

No action taken.

AGENDA ITEM 12: Adjourn (Action).

MOTION John McBeth moved to adjourn.

SECOND J.R. Salazar seconded the motion.

Meeting adjourned at 2:18 P.M.

Prepared by:

Approved by:

Josh Ribakove

Rob Stephens, Chair

AGENDA ITEM 5

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §§31.3, 31.11, 31.30, 31.31, 31.36, 31.42 - 31.45, 31.47, 31.48, 31.50, and 31.57, and the repeal of §§31.17 and 31.18, all concerning public transportation, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A, B, C, D, E, and F, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the general counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §§31.3, 31.11, 31.30, 31.31, 31.36, 31.42 - 31.45, 31.47, 31.48, 31.50, and 31.57, and the repeal of §§31.17 and 31.18 are adopted and are authorized for filing with the Office of Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:

Recommended by:

Director, Public Transportation Division

Executive Director

Minute Number Date Passed

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Adoption Preamble

The Texas Department of Transportation (department) adopts amendments to §§31.3, 31.11, 31.30, 31.31, 31.36, 31.42 - 31.45, 31.47, 31.48, 31.50, and 31.57, and the repeal of §§31.17 and 31.18, all concerning public transportation. The amendments to §§31.3, 31.11, 31.30, 31.31, 31.36, 31.42 - 31.45, 31.47, 31.48, 31.50, and 31.57, and the repeal of §§31.17 and 31.18 are adopted without changes to the proposed text as published in the September 15, 2017 issue of the *Texas Register* (42 TexReg 4792) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS AND REPEALS

The proposed revisions address the impact of changes in state statutes and appropriations, revise funding allocation formulas, address the impacts of revised federal program guidance, remove obsolete text, and update references to current authorizing statutes. Certain sections proposed for repeal administered obsolete federal programs.

SUBCHAPTER A, GENERAL

Amendments to §31.3, Definitions, reflect revisions to the Texas Administrative Code in Chapter 31 in accordance with state and federal statutes and federal guidance impacting the department's role in administering public transportation programs and remove references to repealed federal programs. The definition of "Common Rule," paragraph (10) is deleted. The United States Department of Transportation Common Rules have been superseded.

1 The citation to the appropriate federal regulations has been
2 substituted for the term "Common Rule" throughout the amended
3 rules. The amendments delete the definition "job access
4 project" which was used as part of a repealed federal statute
5 and add the definition of "large urban transit district," in
6 accordance with HB 1140, 85th Legislature, Regular Session. The
7 amendments add the definition of "small urban transit district,"
8 in accordance with HB 1140, 85th Legislature, Regular Session.
9 In the definition of "welfare recipient," the amendments remove
10 a reference to a repealed federal statute.

11

12 SUBCHAPTER B, STATE PROGRAMS

13 Amendments to §31.11, Formula Program, revise the text to
14 account for statutory changes from HB 1140, 85th Legislature,
15 Regular Session, which revise geographical funding categories,
16 address increases in funding, clarify funding allocation
17 description for urban transit districts in the Dallas-Ft. Worth-
18 Arlington urbanized area, remove an expired section, and require
19 a one-time award in FY 2018 to transition from the old formula
20 to the new formula.

21

22 Amendments to §31.11(b)(1) indicate the amount of funds
23 available, allocate a portion of those funds to the new funding
24 category "large urban transit districts," show funds as dollar
25 amounts rather than as percentages, and indicate that if
26 appropriated amounts are less than shown, the funds will be
27 reduced proportionately in each funding category.

1
2 Amendments to §31.11(b)(1)(A)(i) clarify the description of four
3 urban transit districts in the Dallas-Ft. Worth-Arlington
4 urbanized area. Instead of a description as "tier one," the
5 text explicitly names these four transit districts. The
6 amendments also include the allocated amounts authorized by
7 statute for each of these transit districts.

8
9 Amendments to §31.11(b)(1)(A)(ii) describe funding allocation
10 methodology for the small urbanized areas.

11
12 Amendments to §31.11(b)(1)(A)(iii) describe funding allocation
13 methodology for the large urbanized areas. The amendments also
14 include a cap on the population figure used in the formula of
15 299,999 to allocate funds among all eligible large urbanized
16 areas.

17
18 Amendments to §31.11(b)(2) remove a reference to an expired
19 provision and add a one-time provision for FY 2018 that requires
20 an allocation to account for the award of additional funds due
21 to the revised rules and available funds.

22
23 SUBCHAPTER C, FEDERAL PROGRAMS
24 Section 31.17, Section 5316 Grant Program, and §31.18, Section
25 5317 Grant Program, are repealed because the Section 5316 and
26 Section 5317 grant programs were removed from federal statutes
27 by the previous authorizing legislation, known as MAP-21.

1 Projects under §31.17 and §31.18 have been completed and closed
2 out. No impact of the repeal to existing and potential
3 subrecipients is expected.

4

5 Amendments to §31.30, Section 5339 Grant Program, reflect
6 revisions to the department's role in administering the Federal
7 Transit Administration (FTA) Section 5339 program. The
8 department will continue to act as the designated recipient in
9 this program for small urban transit districts. However, the
10 department will exercise its option to have small urban transit
11 districts apply directly to the FTA for those funds, upon
12 notification by the department. This is similar to how the FTA
13 Section 5307 program is handled. The department will continue to
14 determine allocations and administer the Section 5339 program
15 for the rural transit districts.

16

17 Amendments to §31.30(c) change the description from "transit
18 agencies" to "transit districts" to improve clarity.

19

20 Amendments to §31.30(d)(1) revise the formula to use total
21 vehicle miles as reported by transit districts instead of a
22 formula based upon the expected remaining useful life of each
23 vehicle. The amendments also include a minimum amount of one
24 percent of the total program allocation to be awarded to each
25 transit district.

26

1 Amendments to §31.30(d)(2) specify that the department will
2 notify the FTA of the formula allocations.

3
4 Amendments to §31.30(d)(3) specify that the department will
5 notify the small urban transit districts of the formula
6 allocations.

7
8 Amendments to §31.30(d)(4) authorize transit districts to apply
9 for those funds directly with the FTA.

10
11 Amendments to §31.30(e)(1) revise the formula to use total
12 vehicle miles as reported by transit districts instead of a
13 formula based upon the expected remaining useful life of each
14 vehicle. The amendments also include a minimum amount of one
15 percent of the total program allocation to be awarded to each
16 transit district.

17
18 Amendments to §31.30(f) refer to the latest federal guidance
19 document and remove the reference to fleet condition.

20
21 Amendments to §31.30(g) add that recipient projects must also be
22 linked to the asset management plan.

23
24 Amendments to §31.31, Section 5310 Grant Program, revise the
25 text to reflect the revised Code of Federal Regulations for the
26 Section 5310 grant program as a result of changes that occur in
27 the Fixing America's Surface Transportation (FAST) Act.

1
2 Amendments to §31.31(d) show there is no distinction between
3 primary and alternate recipients of Section 5310 funds for rural
4 and urbanized areas with a population of less than 200,000.
5 Recipients are urban and rural transit districts, private non-
6 profit organizations, state and local government authorities
7 that coordinate services for seniors and individuals with
8 disabilities, or taxis providing shared-ride service. Recipients
9 that are not transit districts shall coordinate service with
10 transit districts to ensure service does not duplicate existing
11 service.

12
13 Amendments to §31.31(e)(2)(A)(ii) clarify the description of
14 vehicles by replacing the term paratransit with smaller
15 accessible vehicles to avoid any confusion with vehicles that
16 are used specifically for the ADA required paratransit service
17 in places with fixed route bus service.

18
19 Amendments to §31.31(e)(2)(A)(viii) expand the eligible items to
20 lifts, ramps, and other securement devices to include new
21 technology and to reflect the language in the federal circular.

22
23 The amendment to §31.31(e)(2)(A)(x) clarifies the use of the
24 word computer to cover the development of new technology beyond
25 the term microcomputer.

26

1 Amendments to §31.31(i)(1)-(2) reflect a change in department
2 procedure. Local stakeholders are consulted during the public
3 outreach process before project selection. Local planning and
4 project development occur as part of the coordinated human
5 service transportation planning process, not as part of Section
6 5310 public outreach. To increase fairness and equity, the
7 department recommends projects that consider program goals and
8 objectives. The reference to the FTA Circular is updated to
9 9070.1G.

10

11 Amendments to §31.31(i) add paragraph (3) to clarify the
12 requirement for at least 55 percent of the funds allocation to
13 be used for capital expenses, expanding on the existing language
14 that not more than 45 percent of the funds can be used for
15 operating expenses.

16

17 Amendments to §31.36, Section 5311 Grant Program, revise the
18 text to describe intent to minimize negative impacts from
19 changes in transit district boundaries, revise the factor used
20 to allocate a portion of the funding from revenue miles to total
21 vehicles miles, revise definitions to more closely follow
22 industry usage, and correct references to implementing
23 regulations. Subsection (b)(5) is added to the list of
24 department objectives to show that transportation district
25 boundary changes are an important factor. This includes changes
26 that occur when Texas counties move from one rural transit

1 district to another or when the counties create a new transit
2 district.

3

4 Amendments to §31.36(e)(2)(A)(ii) clarify the description of
5 eligible items for capital expenses.

6

7 Amendments to §31.36(e)(2)(A)(ix) and (xiii) revise the language
8 to use the same terminology as used in the federal guidance.

9

10 Amendments to §§31.36(e)(2)(C)(iv), (e)(3)and(4), and (g) refer
11 to the latest federal guidance document.

12

13 Amendments to §31.36(g)(3) add a one-time award to address
14 changes in transit district boundaries as a discretionary
15 allocation award category. Amendments to §31.36(g)(4) change
16 the data element for calculating this award category from
17 vehicle revenue miles to total vehicle miles.

18

19 SUBCHAPTER D, PROGRAM ADMINISTRATION

20 Amendments to §31.42, Standard Federal Requirements; §31.43,
21 Contracting Requirements; §31.44, Procurement Requirements;
22 §31.45 Accounting and Financial Recordkeeping Requirements;
23 §31.46, Reimbursement Procedures; §31.47, Audit and Project
24 Close-Out Standards; and §31.48 Project Oversight, revise the
25 rules to correct references to federal regulations and update a
26 compliance monitoring practice.

27

1 Amendments to §§31.42(a), 31.43(b), 31.44(b), 31.45(b), and
2 31.47(b) refer to the latest federal regulations. Amendments to
3 §31.48(b)(4) refer to the latest federal regulations and remove
4 a reference to a state program that does not apply. The
5 amendment to §31.48(c)(3) changes a description to indicate a
6 current compliance monitoring practice.

7

8 SUBCHAPTER E, PROPERTY MANAGEMENT STANDARDS

9 Amendments to §31.50, Recordkeeping and Inventory Requirements,
10 and §31.57, Disposition, revise the text to correct references
11 to federal regulations.

12

13 Amendments to §31.57(c) and (d)(2)(C) refer to the latest
14 federal regulations.

15

16 COMMENTS

17 No comments on the proposed amendments and repeals were
18 received.

19

20 STATUTORY AUTHORITY

21 The amendments and repeals are adopted under Transportation
22 Code, §201.101, which provides the Texas Transportation
23 Commission with the authority to establish rules for the conduct
24 of the work of the department, and more specifically, §456.022,
25 which provides the commission with authority to adopt rules
26 establishing a formula allocating funds among individual
27 eligible public transportation providers.

1

2 CROSS REFERENCE TO STATUTE

3 Transportation Code, Chapters 455, 456, 458, and 461.

1 SUBCHAPTER A. GENERAL

2 §31.3. Definitions. The following words and terms, when used
3 in this chapter, shall have the following meanings, unless the
4 context clearly indicates otherwise:

5 (1) Administrative expenses--Include, but are not
6 limited to, general administrative expenses such as salaries of
7 the project director, secretary, and bookkeeper; insurance
8 premiums or payments to a self-insurance reserve; office
9 supplies; facilities and equipment rental; and standard overhead
10 rates.

11 (2) Allocation--A preliminary distribution of grant
12 funds representing the maximum amount to be made available to an
13 entity during the fiscal year, subject to the entity's
14 completion of and compliance with all application requirements,
15 rules, and regulations applicable to the specific funding
16 program.

17 (3) Americans with Disabilities Act (ADA)--The
18 Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et
19 seq.), which provides a comprehensive national mandate for the
20 elimination of discrimination against individuals with
21 disabilities. The ADA provides specific requirements related to
22 public transportation.

23 (4) Asset management plan--The transit asset
24 management plan prepared in accordance with 49 U.S.C. §5326 and
25 certified by the department. The plan includes at a minimum,

1 capital asset inventories and condition assessments, decision
2 support tools, and investment prioritization.

3 (5) Authority--A metropolitan transit or regional
4 transportation authority created under Transportation Code,
5 Chapter 451 or 452; a city transit department created under
6 Transportation Code, Chapter 453, by a municipality having a
7 population of not less than 200,000 at the time of its creation;
8 or a coordinated county authority created under Transportation
9 Code, Chapter 460.

10 (6) Average revenue vehicle capacity--The number of
11 seats in all revenue vehicles divided by the number of revenue
12 vehicles.

13 (7) Capital expenses--Include the acquisition,
14 construction, and improvement of public transit facilities and
15 equipment needed for a safe, efficient, and coordinated public
16 transportation system.

17 (8) Clean Air Act--The federal Clean Air Act (42
18 U.S.C. §7401 et seq.), which seeks to protect and enhance the
19 quality of the nation's air resources by promoting and financing
20 reasonable federal, state, and local governmental actions for
21 pollution prevention.

22 (9) Commission--The Texas Transportation Commission.

23 (10) [~~Common Rule -- 49 C.F.R. Part 18, Uniform~~
24 ~~Administrative Requirements for Grants and Cooperative~~
25 ~~Agreements to State and Local Governments or 49 C.F.R. Part 19,~~
26 ~~Uniform Administrative Requirements for Grants and Agreements~~

NOTE: Additions underlined

Deletions in []

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Exhibit B

1 ~~with Institutions of Higher Education, Hospitals, and Other Non-~~
2 ~~Profit Organizations.]~~

3 ~~(11)~~ Contractor--A recipient of public
4 transportation funds through a contract or grant agreement with
5 the department.

6 (11)~~(12)~~ Department--The Texas Department of
7 Transportation.

8 (12)~~(13)~~ Designated recipient--The state, an
9 authority, a municipality that is not included in an authority,
10 a local governmental body, another political subdivision, or a
11 nonprofit entity providing rural public transportation services,
12 that receives federal or state public transportation money
13 through the department or the Federal Transit Administration, or
14 its successor.

15 (13)~~(14)~~ Director--The director of public
16 transportation for the department.

17 (14)~~(15)~~ Disability--Disability as defined in the
18 ADA (42 U.S.C. §12102), which includes a physical or mental
19 impairment that substantially limits one or more major life
20 activities of an individual.

21 (15)~~(16)~~ District--One of the 25 districts of the
22 department for a designated geographic area.

23 (16)~~(17)~~ Employment-related transportation--
24 Transportation to support services that assist individuals in
25 job search or job preparation. Trips to daycare centers, one-

1 stop workforce centers, jobs interviews, and vocational training
2 are examples.

3 (17)~~(18)~~ Equipment--Tangible, nonexpendable,
4 personal property having a useful life of more than one year and
5 an acquisition cost of \$5,000 or more per unit.

6 (18)~~(19)~~ Executive director--The executive director
7 of the department.

8 (19)~~(20)~~ Fare box revenues--Fares paid by riders,
9 including those who are later reimbursed by a human service
10 agency or other user-side subsidy arrangement. This definition
11 includes subscription service fees, whether or not collected on-
12 board a transit vehicle. Payments made directly to the
13 transportation system by a human service agency are not
14 considered to be fare box revenues.

15 (20)~~(21)~~ Federal Transit Administration (FTA)--The
16 Federal Transit Administration of the United States Department
17 of Transportation.

18 (21)~~(22)~~ Federally funded project--A public
19 transportation project that is being funded in part under the
20 provisions of the Federal Transit Act, as amended, 49 U.S.C.
21 §5301 et seq., the Federal-Aid Highway Act of 1973, as amended,
22 23 U.S.C. §101 et seq., or any other federal program for funding
23 public transportation.

24 (22)~~(23)~~ Fiscal year--The state accounting period of
25 12 months that begins on September 1 of each calendar year and
26 ends on August 31 of the following calendar year.

1 (23)~~(+24)~~ Good standing--A status indicating that the
2 department's director of public transportation has not sent a
3 letter to an entity signifying the entity is in noncompliance
4 with any aspect of a program.

5 (24)~~(+25)~~ Incident--An intentional or unintentional
6 act that occurs on or in association with transit-controlled
7 property and that threatens or affects the safety or security of
8 an individual or property.

9 (25)~~(+26)~~ Large urban transit district--A local
10 governmental entity or a political subdivision of the state that
11 provides and coordinates public transportation within an
12 urbanized area with a population greater than or equal to
13 200,000 in accordance with Transportation Code, Chapter 458.
14 This definition includes urban transportation providers under
15 Transportation Code, Chapter 456, that received state money
16 through the department on September 1, 1994. This definition
17 excludes authorities. [~~Job access project--A public~~
18 ~~transportation project relating to the development and~~
19 ~~maintenance of transportation services designed to transport~~
20 ~~welfare recipients and eligible low-income individuals to and~~
21 ~~from jobs and activities related to their employment, or as~~
22 ~~otherwise defined by 49 U.S.C. §5302 or 49 U.S.C. §5316, the Job~~
23 ~~Access and Reverse Commute program as established under the~~
24 ~~Safe, Accountable, Flexible, Efficient Transportation Equity~~
25 ~~Act: A Legacy for Users (SAFETEA-LU).]~~

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:15 AM

Exhibit B

1 (26)~~(+27)~~ Like-kind exchange--The trade-in or sale of
2 a transit vehicle before the end of its useful life to acquire a
3 replacement vehicle of like kind.

4 (27)~~(+28)~~ Local funds--Directly generated funds, as
5 defined in the latest edition of the Federal Transit
6 Administration National Transit Database Reporting Manual.
7 Examples include, but are not limited to, passenger fares,
8 special transit fares, purchased transportation fares, park and
9 ride revenue, other transportation revenue, charter service
10 revenue, freight tariffs, station and vehicle concessions,
11 advertising revenue, funds dedicated to transit at their source,
12 taxes, cash contributions, contract revenue, general revenue,
13 and in-kind contributions.

14 (28)~~(+29)~~ Local governmental entity--Any local unit
15 of government including a city, town, village, municipality,
16 county, city transit department, or authority.

17 (29)~~(+30)~~ Local public entity --Includes a city,
18 county, or other political subdivision of the state, a public
19 agency, or an instrumentality of one or more states,
20 municipalities, or political subdivisions of states.

21 (30)~~(+31)~~ Local share requirement--The amount of
22 funds required and eligible to match federally funded projects
23 for the improvement of public transportation.

24 (31)~~(+32)~~ Low-income individual--An individual whose
25 family income is at or below 150 percent of the poverty line, as
26 that term is defined in the Community Services Block Grant Act

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:15 AM

Exhibit B

1 (42 U.S.C. §9902(2)), including any revision required by that
2 section, for a family of the size involved, or as otherwise
3 defined by 49 U.S.C. §5302 or 49 U.S.C. §5316, the Job Access
4 and Reverse Commute program as established under the Safe,
5 Accountable, Flexible, Efficient Transportation Equity Act: A
6 Legacy for Users.

7 (32)~~(+33)~~ Metropolitan Planning Organization (MPO)--
8 The organization designated or redesignated by the governor
9 under 23 U.S.C. §134 as the responsible entity for
10 transportation planning in urbanized areas over 50,000 in
11 population.

12 (33)~~(+34)~~ Mobility management--Eligible capital
13 expenses consisting of short-range planning and management
14 activities and projects for improving coordination among public
15 transportation and other transportation-service providers
16 carried out by a recipient or subrecipient through an agreement
17 entered into with a person, including a government entity, under
18 49 U.S.C. §5301 et seq. (other than §5309 and §5339). Mobility
19 management excludes operating public transportation services and
20 excludes equipment, tires, tubes, material, and reconstruction
21 of equipment and material described as associated capital
22 maintenance in the definition of "capital project" under 49
23 U.S.C. §5302.

24 (34)~~(+35)~~ Net operating expenses--Those expenses that
25 remain after fare box revenues are subtracted from eligible
26 operating expenses.

1 (35)~~(+36+)~~ New public transportation services or
2 alternatives--An activity that, with respect to the New Freedom
3 program:

4 (A) is targeted toward people with disabilities;

5 (B) is beyond the ADA requirements;

6 (C) meets the intent of the program by removing
7 barriers to transportation and assisting persons with
8 disabilities with transportation, including transportation to
9 and from jobs and employment services; and

10 (D) is not included in a Transportation
11 Improvement Program or Statewide Transportation Improvement
12 Program prior to August 10, 2005.

13 (36)~~(+37+)~~ Nonprofit organization--A corporation or
14 association determined by the Secretary of the Treasury of the
15 United States to be an organization described by 26 U.S.C.
16 §501(c), one that is exempt from taxation under 26 U.S.C.
17 §504(a) or §101, or one that has been determined under state law
18 to be nonprofit and for which the state has received
19 documentation certifying the status of the organization.

20 (37)~~(+38+)~~ Nonurbanized area--An area outside an
21 urbanized area.

22 (38)~~(+39+)~~ Obligated funds--Monies made available
23 under a valid, unexpired contract or grant agreement between the
24 department and a public transportation subrecipient.

25 (39)~~(+40+)~~ Private--Pertaining to nonpublic entities.
26 This definition does not include municipalities or other

1 political subdivisions of the state; public agencies or
2 instrumentalities of one or more states; Native American tribes
3 (except private nonprofit corporations formed by Native American
4 tribes); public corporations, boards, or commissions established
5 under the law of any state; or entities subject to control by
6 public authority, whether state or municipal.

7 (40)~~[+41+]~~ Project--The public transportation
8 activities to be carried out by a subrecipient, as described in
9 its application for funding.

10 (41)~~[+42+]~~ Public transportation--Shared-ride
11 transportation of passengers and their hand-carried packages or
12 baggage on a regular or continuing basis by means of surface or
13 water conveyance by a governmental entity or by a private entity
14 if the private entity receives financial assistance for that
15 conveyance from any governmental entity. This definition
16 includes fixed guideway transportation and underground
17 transportation. This definition excludes services provided by
18 aircraft, ambulances, emergency vehicles, intercity passenger
19 rail transportation, charter bus service, school bus service,
20 sightseeing service, courtesy shuttle service for patrons of one
21 or more specific establishments, or intra-terminal and intra-
22 facility shuttle services.

23 (42)~~[+43+]~~ Public transportation safety plan--The
24 agency safety plan prepared in accordance with 49 U.S.C. §5329
25 and certified by the department.

1 (43)~~(44)~~ Real property--Land, including
2 improvements, structures, and appurtenances, but excluding
3 movable machinery and equipment.

4 (44)~~(45)~~ Revenue service--Passenger transportation
5 occurring when a vehicle is available to the general public and
6 there is a reasonable expectation of carrying passengers that
7 directly pay fares, are subsidized by public policy, or provide
8 payment through some contractual agreement. This does not imply
9 that a cash fare must be paid. Vehicles operated in free fare
10 services are considered in revenue service.

11 (45)~~(46)~~ Revenue vehicle--The rolling stock used in
12 providing transit service for passengers. This definition does
13 not include a vehicle used in connection with keeping revenue
14 vehicles in operation, such as a tow truck or a staff car.

15 (46)~~(47)~~ Reverse commute project--A public
16 transportation project designed to transport residents of
17 urbanized areas and other than urbanized areas to suburban
18 employment opportunities, or as otherwise defined by 49 U.S.C.
19 §5302 or 49 U.S.C. §5316, the Job Access and Reverse Commute
20 program as established under the Safe, Accountable, Flexible,
21 Efficient Transportation Equity Act: A Legacy for Users.

22 (47)~~(48)~~ Ridership--Unlinked passenger trips.

23 (48)~~(49)~~ Rural area--A nonurbanized area.

24 (49)~~(50)~~ Rural transit district--A political
25 subdivision of the state that provides and coordinates rural

1 public transportation within its boundaries in accordance with
2 the provisions of Transportation Code, Chapter 458.

3 (50)~~(51)~~ Senior--An individual who is 65 years of
4 age or older.

5 (51) Small urban transit district--A local
6 governmental entity or a political subdivision of the state that
7 provides and coordinates public transportation within an
8 urbanized area with a population less than 200,000 in accordance
9 with Transportation Code, Chapter 458. This definition includes
10 urban transportation providers under Transportation Code,
11 Chapter 456, that received state money through the department on
12 September 1, 1994. This definition excludes authorities.

13 (52) Stakeholders--All individuals or groups that are
14 potentially affected by transportation decisions. Examples
15 include public health, work force, and human service agencies;
16 representatives of transportation agency employees or other
17 affected employees; private providers of transportation; non-
18 governmental agencies; local businesses; advocates for persons
19 in diverse and traditionally underserved communities, such as
20 seniors, individuals with disabilities, and persons with low
21 incomes; and other interested parties.

22 (53) Subrecipient--An entity that receives state or
23 federal transportation funding from the department, rather than
24 directly from FTA or other state or federal funding source.

25 (54) Uniform grant and contract management standards--
26 The standards contained in the Texas Administrative Code, Title

1 1, Chapter 5, Subchapter A, concerning uniform grant and
2 contract management standards for state agencies.

3 (55) U.S. DOT--United States Department of
4 Transportation.

5 (56) Unlinked passenger trips--The number of
6 passengers who board public transportation vehicles. A
7 passenger is counted each time the passenger boards a vehicle
8 even though the passenger might be on the same journey from
9 origin to destination.

10 (57) Urban transit district--A local governmental
11 entity or a political subdivision of the state that provides and
12 coordinates public transportation within an urbanized area in
13 accordance with Transportation Code, Chapter 458. This
14 definition includes urban transportation providers under
15 Transportation Code, Chapter 456, that received state money
16 through the department on September 1, 1994. This definition
17 excludes authorities.

18 (58) Urbanized area--A core area and the surrounding
19 densely populated area with a population of 50,000 or more, with
20 boundaries fixed by the United States Census Bureau.

21 (59) Vehicle miles--The miles a vehicle travels while
22 in revenue service, plus deadhead miles. This definition
23 excludes miles a vehicle travels for charter service, school bus
24 service, operator training, or maintenance testing.

25 (60) Vehicle revenue hours or miles--The hours or
26 miles a vehicle travels while in revenue service. This

1 definition includes layover and recovery, but excludes travel to
2 and from storage facilities, the training of operators prior to
3 revenue service, road tests, deadhead travel, and school bus and
4 charter service.

5 (61) Vehicle utilization--Average daily passenger
6 trips per revenue vehicle, divided by average revenue vehicle
7 capacity. This definition provides a measure of an individual
8 system's ability to use existing seating capacity.

9 (62) Welfare recipient--An individual who has received
10 assistance under a state or tribal program funded under the
11 Social Security Act, Title IV, Part A, at any time during the
12 previous three year period before the date on which the
13 applicant applies for a grant under 49 U.S.C. §5307 or §5311, or
14 as otherwise defined by 49 U.S.C. §5307 or §5311[, ~~or under 49~~
15 ~~U.S.C. §5316, the Job Access and Reverse Commute program as~~
16 ~~established under the Safe, Accountable, Flexible, Efficient~~
17 ~~Transportation Equity Act: A Legacy for Users~~].

SUBCHAPTER B. STATE PROGRAMS

§31.11. Formula Program.

(a) Purpose. Transportation Code, Chapter 456 requires the commission to allocate, at the beginning of each fiscal biennium, certain amounts appropriated for public transportation. This section sets out the policies, procedures, and requirements for that allocation.

(b) Formula allocation. At the beginning of each state fiscal biennium, an amount equal to the amount appropriated from all sources to the commission by the legislature for that biennium for public transportation, other than federal funds and amounts specifically appropriated for coordination, technical support, or other costs of administration, will be allocated to urban and rural transit districts.

(1) If the appropriated amount to which this subsection applies is at least \$69,982,134~~[\$57,482,135 or less]~~, the commission will allocate \$7,000,000 to large urban transit districts, \$20,118,748 ~~[35 percent of the appropriated amount]~~ to small urban transit districts, and \$42,863,386 ~~[65 percent of the appropriated amount]~~ to rural transit districts. If the appropriated amount is less than \$69,982,134, the amounts allocated by this paragraph will be reduced proportionately.

(A) Urban funds available under this section will be allocated to urban transit districts as provided by this subparagraph.

1 (i) If at least \$69,982,134 is appropriated
2 as described in paragraph (1) of this subsection, an urban
3 transit district receiving funds under Transportation Code,
4 Section 456.006(b), will be allocated for each year of the
5 biennium an amount equal to the amount received by that district
6 in Fiscal Year 1997. These districts include the cities of
7 Arlington (amount \$341,663), Grand Prairie (amount \$170,584),
8 Mesquite (amount \$142,455), and North Richland Hills (amount
9 \$116,134). These allocations will be assigned from the small
10 urban transit district funds. If less than \$69,982,134 is
11 appropriated, the amounts allocated by this clause will be
12 reduced proportionately. If more than \$69,982,134 is
13 appropriated, an urban transit district to which this clause
14 applies is not eligible for additional funds under paragraph (2)
15 or (3) of this subsection.~~[Urban funds allocated under this~~
16 ~~paragraph will be divided into two tiers. Tier one will include~~
17 ~~urban transit districts that restrict transit eligibility for~~
18 ~~all public transportation services to seniors and individuals~~
19 ~~with disabilities. Funding available in tier one is calculated~~
20 ~~by multiplying the available urban funding by the population of~~
21 ~~seniors and individuals with disabilities in tier one providers,~~
22 ~~divided by the service eligible population of urbanized areas~~
23 ~~receiving funding under this subchapter. Tier two will include~~
24 ~~urban transit districts that provide any service to the general~~
25 ~~population. The funds for tier two will be the remaining~~

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GCD: 10/17/2017 9:17 AM

Exhibit C

1 ~~balance of the available funds after the funds for tier one have~~
2 ~~been allocated.]~~

3 (ii) One-half of the funds allocated to
4 small urban transit districts will be [~~within each tier provided~~
5 ~~under clause (i) of this subparagraph will be allocated to urban~~
6 ~~transit districts as a need based allocation]~~ based on
7 population by using the latest census data available from~~[, and~~
8 ~~as defined by,]~~ the U.S. Census Bureau for each small urbanized
9 area relative to the sum of all small urbanized areas. [~~Any~~
10 ~~urban transit district whose urbanized area population is~~
11 ~~200,000 or greater will have the population adjusted to reflect~~
12 ~~a population level of 199,999; except that any urban transit~~
13 ~~district receiving funds in tier one, as described in clause (i)~~
14 ~~of this subparagraph, will have the population adjusted to~~
15 ~~reflect a population level of 199,999, or the urbanized area~~
16 ~~population of the place as defined by the U.S. Census Bureau,~~
17 ~~whichever is less.]~~

18 [~~(iii)~~] One-half of the funds allocated to
19 small urban transit districts [~~within each tier provided under~~
20 ~~clause (i) of this subparagraph]~~ will be [~~allocated to urban~~
21 ~~transit districts as a]~~ performance-based allocations
22 [~~allocation]~~.

23 (iii) One-half of the funds allocated to
24 large urban transit districts will be based on population by
25 using the latest census data available from the U.S. Census
26 Bureau for each large urbanized area relative to the sum of all

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GCD: 10/17/2017 9:17 AM

Exhibit C

1 large urbanized areas served by urban transit districts. A
2 large urban transit district with an urbanized area population
3 of 300,000 or more will have the population adjusted to reflect
4 a population level of 299,999. One-half of the funds allocated
5 to large urban transit districts will be performance-based
6 allocations.

7 (iv) An urban transit district is eligible
8 for a performance-based allocation under clause (ii) or (iii) of
9 this subparagraph, as appropriate, [funding under this clause]
10 if it is in good standing with the department and has no
11 deficiencies and no findings of noncompliance. The commission
12 will award the performance-based funding based on the following
13 weighted criteria: 30 percent for local funds per operating
14 expense, 20 percent for ridership per capita, 30 percent for
15 ridership per revenue mile, and 20 percent for revenue miles per
16 operating expense. These criteria may be calculated using the
17 urban transit district's annual audit for the previously
18 completed fiscal year, data from other sources, or from the
19 department's records.

20 (v) [~~(iv)~~] If an urban transit district
21 experiences a negative impact in its performance factor
22 calculations due to the acquisition or loss of service area, a
23 natural disaster, including wind, fire, or flood, or an
24 unforeseen anomaly, the department may mitigate that negative
25 impact with an alternate calculation addressing the specific

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GCD: 10/17/2017 9:17 AM

Exhibit C

1 situation. The alternate calculation may be used in subsequent
2 years at the discretion of the department.

3 (B) Rural funds allocated under this paragraph
4 will be allocated only to rural transit districts in rural areas
5 based upon need and performance as described in clauses (i) and
6 (ii) of this subparagraph.

7 (i) Sixty-five percent of the funding under
8 this subparagraph will be allocated to rural transit districts
9 as a need based allocation giving consideration to population
10 weighted at 75 percent and on land area weighted at 25 percent
11 for each rural area relative to the sum of all rural areas.

12 (ii) Thirty-five percent of the funding
13 under this subparagraph will be allocated to rural transit
14 districts as a performance based allocation. A rural transit
15 district is eligible for funding under this clause if it is in
16 good standing with the department and has no deficiencies and no
17 findings of noncompliance. The commission will award the
18 funding by giving equal consideration to local funds per
19 operating expense, ridership per revenue mile, and revenue miles
20 per operating expense. These criteria may be calculated using
21 the rural transit district's annual audit for the previously
22 completed fiscal year, data from other sources, or from the
23 department's records.

24 (iii) If a rural transit district
25 experiences a negative impact in its performance factor
26 calculations due to the acquisition or loss of service area, a

1 natural disaster, such as wind, fire, or flood, or an unforeseen
2 anomaly, the department may mitigate that impact with an
3 alternate calculation addressing the specific situation. The
4 alternate calculation may be used in subsequent years at the
5 discretion of the department.

6 (C) Funds allocated under this section and any
7 local funds may be used for any transit-related activity except
8 that an urban transit district not included in a transit
9 authority but located in an urbanized area that includes one or
10 more transit authorities may use funds allocated under this
11 section only to provide up to:

12 (i) 65 percent of the local share
13 requirement for federally financed projects for capital
14 improvements;

15 (ii) 50 percent of the local share
16 requirement for projects for operating expenses and
17 administrative costs;

18 (iii) 50 percent of the total cost of a
19 public transportation capital improvement, if the urban transit
20 district certifies that federal money is unavailable for the
21 proposed project and the commission finds that the proposed
22 project is vitally important to the development of public
23 transportation in the state; and

24 (iv) 65 percent of the local share
25 requirement for federally financed planning activities.

1 (D) Subject to available appropriation, no award
2 to an urban or rural transit district under this paragraph will
3 be less than 90 percent of the award to that transit district
4 for the previous fiscal year. All allocations under subsection
5 (b)(1)(A) and (B) of this section are subject to revision to
6 comply with this standard.

7 (2) A one-time allocation of state funds appropriated
8 for Fiscal Year 2018 will be made to eligible urban and rural
9 transit districts, consistent with the direction from
10 Transportation Code, Section 456.021(a), as amended by H.B.
11 1140, 85th Legislature, Regular Session, 2017, to address the
12 impacts of revisions to the state funding formula. This
13 paragraph expires August 31, 2018. [~~If the appropriated amount~~
14 ~~to which this subsection applies exceeds \$57,482,135, the~~
15 ~~commission will allocate \$57,482,135 in accordance with~~
16 ~~paragraph (1) of this subsection and will allocate all or a part~~
17 ~~of the excess amount, as necessary to mitigate changes in~~
18 ~~formula allocations described by subparagraph (A) or (B) of this~~
19 ~~paragraph, as appropriate, resulting from the application of the~~
20 ~~2010 census data.]~~

21 ~~[(A) For an urban transit district, a formula~~
22 ~~allocation impact may be mitigated if, using 2010 performance~~
23 ~~data, the total allocation to the district for the need based~~
24 ~~allocation, as described in subsection (b)(1)(A)(ii) of this~~
25 ~~section, plus the performance based allocation, as described in~~
26 ~~subsection (b)(1)(A)(iii) of this section, obtained using 2010~~

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Exhibit C

1 ~~census data, is less than the total corresponding allocation to~~
2 ~~the district obtained using 2000 census data.]~~

3 ~~[(B) For a rural transit district, a formula~~
4 ~~allocation impact may be mitigated if, using 2010 performance~~
5 ~~data, the total allocation to the district for the need based~~
6 ~~allocation, as described in subsection (b)(1)(B)(i) of this~~
7 ~~section, plus the performance based allocation, as described in~~
8 ~~subsection (b)(1)(B)(ii) of this section, obtained using 2010~~
9 ~~census data, is less than the total corresponding allocation~~
10 ~~obtained using 2000 census data.]~~

11 ~~[(C) Allocations under this paragraph are not~~
12 ~~subject to subsection (b)(1)(D) of this section.]~~

13 ~~[(D) This paragraph expires August 31, 2017.]~~

14 (3) The commission will award on a pro rata basis,
15 competitively, or using a combination of both any appropriated
16 amount that remains after other allocations made under this
17 subsection. In awarding funds under this paragraph,
18 consideration may be given to coordination and technical support
19 activities, compensation for unforeseen funding anomalies,
20 assistance with eliminating waste and ensuring efficiency,
21 maximum coverage in the provision of public transportation
22 services, funds needed to initiate public transportation service
23 in new designated urbanized areas, adjustment for reductions in
24 purchasing power, reductions in air pollution, or any other
25 appropriate factor. Awards under this paragraph are not subject

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GCD: 10/17/2017 9:17 AM

Exhibit C

1 to subsection (b)(1)(D) of this section in succeeding fiscal
2 years.

3 (c) Change in service area. If part of an urban or rural
4 transit district's service area is changed due to declaration by
5 the U.S. Census Bureau, or if the service area is otherwise
6 altered, the department and the urban or rural transit district
7 shall negotiate an appropriate adjustment in the funding awarded
8 to that urban or rural transit district for that funding year or
9 any subsequent year, as appropriate. This negotiated adjustment
10 is not subject to subsection (b)(1)(D) of this section.

11 (d) Unobligated funds. Any money under this section that
12 an urban or rural transit district has not applied for before
13 the November commission meeting in the second year of a state
14 fiscal biennium will be administered by the commission under the
15 discretionary program described in §31.13 of this subchapter
16 (relating to Discretionary Program).

17 (e) Returned funds. Any money under this section that an
18 urban or rural transit district agrees to return to the
19 department will be administered by the commission under the
20 discretionary program described in §31.13 of this subchapter.

21 (f) Application. To receive funds allocated under this
22 section, a transit district must first submit a completed
23 application, in the form prescribed by the department. The
24 application must include certification that the proposed public
25 transportation project is consistent with continuing,
26 cooperating, and comprehensive regional transportation planning

1 implemented in accordance with 49 U.S.C. §5301. Federal
2 approval of a proposed public transportation project will be
3 accepted as a determination that all federal planning
4 requirements have been met.

5 (g) Project evaluation. In evaluating a project under this
6 section, the department will consider the need for fast, safe,
7 efficient, and economical public transportation and the approval
8 of the FTA, or its successor.

SUBCHAPTER C. FEDERAL PROGRAMS

~~1~~ ~~[§31.17. Section 5316 Grant Program.]~~

~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~32~~ ~~33~~ ~~34~~ ~~35~~ ~~36~~ ~~37~~ ~~38~~ ~~39~~ ~~40~~ ~~41~~ ~~42~~ ~~43~~ ~~44~~ ~~45~~ ~~46~~ ~~47~~ ~~48~~ ~~49~~ ~~50~~ ~~51~~ ~~52~~ ~~53~~ ~~54~~ ~~55~~ ~~56~~ ~~57~~ ~~58~~ ~~59~~ ~~60~~ ~~61~~ ~~62~~ ~~63~~ ~~64~~ ~~65~~ ~~66~~ ~~67~~ ~~68~~ ~~69~~ ~~70~~ ~~71~~ ~~72~~ ~~73~~ ~~74~~ ~~75~~ ~~76~~ ~~77~~ ~~78~~ ~~79~~ ~~80~~ ~~81~~ ~~82~~ ~~83~~ ~~84~~ ~~85~~ ~~86~~ ~~87~~ ~~88~~ ~~89~~ ~~90~~ ~~91~~ ~~92~~ ~~93~~ ~~94~~ ~~95~~ ~~96~~ ~~97~~ ~~98~~ ~~99~~ ~~100~~ ~~101~~ ~~102~~ ~~103~~ ~~104~~ ~~105~~ ~~106~~ ~~107~~ ~~108~~ ~~109~~ ~~110~~ ~~111~~ ~~112~~ ~~113~~ ~~114~~ ~~115~~ ~~116~~ ~~117~~ ~~118~~ ~~119~~ ~~120~~ ~~121~~ ~~122~~ ~~123~~ ~~124~~ ~~125~~ ~~126~~ ~~127~~ ~~128~~ ~~129~~ ~~130~~ ~~131~~ ~~132~~ ~~133~~ ~~134~~ ~~135~~ ~~136~~ ~~137~~ ~~138~~ ~~139~~ 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1 ~~[(3) foster the development of local, coordinated~~
2 ~~public transit-human service transportation plans from which~~
3 ~~JARC projects are derived;]~~

4 ~~[(4) support local economic development; and]~~

5 ~~[(5) improve the efficiency and effectiveness of the~~
6 ~~§5316 program through the provision of technical assistance.~~

7 ~~[(d) Department role. The department acts as the~~
8 ~~designated recipient for §5316 funds apportioned to the state~~
9 ~~for all urbanized areas with less than 200,000 population and~~
10 ~~all nonurbanized areas. The subrecipient shall retain control~~
11 ~~of daily operations.]~~

12 ~~[(e) Project types.]~~

13 ~~[(1) Job access projects include:]~~

14 ~~[(A) financing the eligible costs of projects~~
15 ~~that provide public transportation services targeted to welfare~~
16 ~~recipients and eligible low-income individuals;]~~

17 ~~[(B) promoting public transportation use by low-~~
18 ~~income workers, including the use of public transportation by~~
19 ~~workers with nontraditional work schedules;]~~

20 ~~[(C) promoting the use of employer-provided~~
21 ~~transportation, including the transit pass benefit program under~~
22 ~~Section 132 of the Internal Revenue Code of 1986;]~~

23 ~~[(D) supporting mobility management and~~
24 ~~coordination programs among public transportation providers and~~
25 ~~other human service agencies providing employment or employment-~~
26 ~~related transportation services; and]~~

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~[(E) otherwise facilitating or providing~~
2 ~~transportation for employment or employment-related purposes by~~
3 ~~welfare recipients and low-income persons.]~~

4 ~~[(2) Reverse commute projects include:]~~

5 ~~[(A) subsidizing the costs associated with adding~~
6 ~~reverse commute bus, train, carpool, van routes, or service from~~
7 ~~urbanized areas and other than urbanized areas to suburban~~
8 ~~workplaces;]~~

9 ~~[(B) subsidizing the purchase or lease by a~~
10 ~~nonprofit organization or public agency of a van or bus~~
11 ~~dedicated to shuttling employees from their residences to a~~
12 ~~suburban workplace;]~~

13 ~~[(C) supporting mobility management and~~
14 ~~coordination programs among public transportation providers and~~
15 ~~other human service agencies providing employment or employment-~~
16 ~~related transportation services; and]~~

17 ~~[(D) otherwise facilitating or providing public~~
18 ~~transportation services to suburban employment opportunities.]~~

19 ~~[(f) Eligible subrecipients.]~~

20 ~~[(1) State agencies, local governmental entities,~~
21 ~~private nonprofit organizations, private for-profit operators,~~
22 ~~and operators of public transportation services are eligible to~~
23 ~~receive §5316 funds through the department.]~~

24 ~~[(2) Applicants who are subrecipients of public~~
25 ~~transportation funds through another program administered by the~~

NOTE: Additions underlined

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GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~department must be in good standing with the department as~~
2 ~~defined in §31.3 of this chapter (relating to Definitions).]~~

3 ~~[(g) Eligible assistance categories.]~~

4 ~~[(1) State administrative expenses. The department~~
5 ~~may use up to 10 percent of the annual federal apportionment for~~
6 ~~urbanized areas with less than 200,000 population and~~
7 ~~nonurbanized areas to defray the expenses incurred for the~~
8 ~~planning and administration of the §5316 program. State~~
9 ~~administrative and technical assistance expenses do not require~~
10 ~~a non-federal match.]~~

11 ~~[(2) Capital expenses.]~~

12 ~~[(A) Eligible items are:]~~

13 ~~[(i) buses, vans, or other paratransit~~
14 ~~vehicles, fare boxes, wheelchair lifts and restraints;]~~

15 ~~[(ii) equipment for transporting bicycles on~~
16 ~~public transit vehicles;]~~

17 ~~[(iii) radios and communication equipment;]~~

18 ~~[(iv) equipment installation costs;]~~

19 ~~[(v) vehicle procurement, testing,~~
20 ~~inspection, and acceptance costs;]~~

21 ~~[(vi) preventive maintenance, including all~~
22 ~~maintenance costs;]~~

23 ~~[(vii) vehicle rebuilding or overhaul;]~~

24 ~~[(viii) capital and operating support~~
25 ~~including computer hardware or software, with prior department~~
26 ~~approval;]~~

NOTE: Additions underlined

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GCD: 10/17/2017 9:18 AM

Exhibit D

- 1 ~~[(ix) transit-related intelligent~~
2 ~~transportation systems;]~~
- 3 ~~[(x) the introduction of new technology,~~
4 ~~through innovative and improved products, into public~~
5 ~~transportation;]~~
- 6 ~~[(xi) passenger shelters, bus stop signs,~~
7 ~~and similar passenger amenities, with prior department~~
8 ~~approval;]~~
- 9 ~~[(xii) mobility management;]~~
- 10 ~~[(xiii) the lease of vehicles or equipment,~~
11 ~~provided that the subrecipient, with the concurrence of the~~
12 ~~department, determines that a lease is more cost effective than~~
13 ~~purchase after considering management efficiency, availability~~
14 ~~of equipment, staffing capabilities, and guidelines on capital~~
15 ~~leases as contained in 49 C.F.R. Part 639;]~~
- 16 ~~[(xiv) the capital portions of costs for~~
17 ~~service under contract; and]~~
- 18 ~~[(xv) the provision of Americans with~~
19 ~~Disabilities Act of 1990 (ADA) paratransit service directly~~
20 ~~related to fixed route JARC services, which shall be used only~~
21 ~~by subrecipients that are in compliance with ADA requirements~~
22 ~~for both fixed route and demand responsive service.]~~
- 23 ~~[(B) For reimbursement;]~~
- 24 ~~[(i) federal funds may be used to reimburse~~
25 ~~up to 80 percent of eligible capital expenditures;]~~

1 ~~[(ii) the federal share may increase up to~~
2 ~~90 percent for incremental costs related to compliance with the~~
3 ~~Clean Air Act or with the ADA; and]~~

4 ~~[(iii) eligibility standards for the higher~~
5 ~~federal share are defined in FTA Circular 9050.1, or its latest~~
6 ~~version.]~~

7 ~~[(3) Project administration. Administrative costs~~
8 ~~associated with a JARC project are eligible for a federal~~
9 ~~reimbursement rate of 50 percent.]~~

10 ~~[(4) Planning activities. The federal reimbursement~~
11 ~~rate is 80 percent. Planning activities may include:]~~

12 ~~[(A) studies relating to management, operations,~~
13 ~~and capital requirements;]~~

14 ~~[(B) evaluation of previously funded projects;~~
15 ~~and]~~

16 ~~[(C) other similar or related activities prior to~~
17 ~~and in preparation for the undertaking or improvement of JARC-~~
18 ~~eligible services.]~~

19 ~~[(5) Marketing projects. The federal reimbursement~~
20 ~~rate is 80 percent. Marketing activities may include:]~~

21 ~~[(A) market research;]~~

22 ~~[(B) production of route maps and schedules;]~~

23 ~~[(C) information delivery;]~~

24 ~~[(D) website development;]~~

25 ~~[(E) advertising;]~~

NOTE: Additions underlined

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GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~[(F) promotion of the use of transit vouchers by~~
2 ~~welfare recipients and eligible low-income individuals; and]~~

3 ~~[(G) promotion of employer-provided~~
4 ~~transportation, including the Internal Revenue Service's transit~~
5 ~~pass benefit.]~~

6 ~~[(6) Operating expenses. Operating expenses are~~
7 ~~reimbursed at 50 percent of net operating expenses. Operating~~
8 ~~expenses are those costs directly tied to systems operations.~~
9 ~~FTA Circular 9030.1C or its latest published version shall be~~
10 ~~the guide for determining eligible operating expenses. Examples~~
11 ~~are:]~~

12 ~~[(A) fuel;]~~

13 ~~[(B) oil;]~~

14 ~~[(C) driver, dispatcher, and mechanic salaries;]~~

15 ~~[(D) purchase of service; and]~~

16 ~~[(E) purchase of vouchers.]~~

17 ~~[(h) Ineligible expenses include:]~~

18 ~~[(1) construction, except for passenger shelters,~~
19 ~~signage, and similar passenger amenities specifically approved~~
20 ~~by the department;]~~

21 ~~[(2) extended vehicle warranties;]~~

22 ~~[(3) purchase and/or maintenance of vehicles intended~~
23 ~~for private use;]~~

24 ~~[(4) purchase of transit passes for use on fixed route~~
25 ~~or ADA complementary paratransit services; and]~~

26 ~~[(5) other FTA-prohibited expenses.]~~

NOTE: Additions underlined

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GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~[(i) Local share requirements.]~~

2 ~~[(1) Eligible match sources include local, state, or~~
3 ~~federal programs, including funds disbursed from the Texas~~
4 ~~Workforce Commission, local workforce development boards, human~~
5 ~~service agencies, and the Medicaid Medical Transportation~~
6 ~~Program. Unrestricted federal funds are also eligible as match,~~
7 ~~such as Temporary Assistance for Needy Families (42 U.S.C.~~
8 ~~§603(a)(5)(C)(vii)). With prior department approval, in-kind~~
9 ~~contributions, volunteer services, and donations directly~~
10 ~~attributable to the project are eligible as local share if the~~
11 ~~value is documented.]~~

12 ~~[(2) Other U.S. Department of Transportation program~~
13 ~~funds cannot be used as the local share required for §5316~~
14 ~~grants. Fares cannot be used as match for any expense but must,~~
15 ~~instead, be used to determine the net operating expense to~~
16 ~~reduce the amount of requested reimbursement.]~~

17 ~~[(j) Planning requirement.]~~

18 ~~[(1) Projects submitted in response to the~~
19 ~~department's call for projects must be derived from a locally~~
20 ~~developed, coordinated public transit-human service~~
21 ~~transportation plan. The plan must be developed through a~~
22 ~~process that includes representatives of public, private, and~~
23 ~~nonprofit transportation and human service providers and~~
24 ~~participation by the public.]~~

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~[(2) The commission supports the development of~~
2 ~~regional service plans that respond to the department's charge~~
3 ~~in Transportation Code, §461.004 to identify:]~~

4 ~~[(A) overlaps and gaps in the provision of public~~
5 ~~transportation services, including services that could be more~~
6 ~~effectively provided by existing, privately funded~~
7 ~~transportation resources;]~~

8 ~~[(B) underused equipment owned by public~~
9 ~~transportation providers; and]~~

10 ~~[(C) inefficiencies in the provision of public~~
11 ~~transportation services by any public transportation provider.]~~

12 ~~[(3) The commission anticipates that the regional~~
13 ~~service planning process will be used to meet the requirements~~
14 ~~of the local coordinated planning process described in paragraph~~
15 ~~(1) of this subsection. Regions interested in participating in~~
16 ~~the JARC program shall develop and prioritize §5316 projects in~~
17 ~~response to the employment transportation deficiencies~~
18 ~~identified in the regional planning process and documented in~~
19 ~~the plan.]~~

20 ~~[(4) A JARC project must:]~~

21 ~~[(A) contain goals and objectives;]~~

22 ~~[(B) discuss rider origination location and~~
23 ~~employment and employment-related destinations and how the~~
24 ~~project fills the transportation gap;]~~

25 ~~[(C) describe how it implements the regional~~
26 ~~service plan;]~~

NOTE: Additions underlined

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GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~[(D) describe the role of the local workforce~~
2 ~~development board or its service provider in developing the~~
3 ~~project;]~~

4 ~~[(E) explain how the project will maximize use of~~
5 ~~existing transportation service providers;]~~

6 ~~[(F) provide a cost estimate; and]~~

7 ~~[(G) identify match sources including employer-~~
8 ~~provided or employer-assisted transportation service strategies~~
9 ~~incorporated in the project.]~~

10 ~~[(k) Allocation. As part of its administration of the~~
11 ~~§5316 program, the department is charged with ensuring that~~
12 ~~there is a fair and equitable distribution of program funds~~
13 ~~within the state.]~~

14 ~~[(1) The department will act as the designated~~
15 ~~recipient for projects in urbanized areas with less than 200,000~~
16 ~~population and in nonurbanized areas. Of the amount apportioned~~
17 ~~to these areas by FTA's annual publication in the Federal~~
18 ~~Register, the department may use up to 10 percent of the total~~
19 ~~for its administrative, planning, and technical assistance~~
20 ~~activities to support the JARC program statewide.]~~

21 ~~[(2) The department will allocate the remaining §5316~~
22 ~~funds to subrecipients through a statewide competitive selection~~
23 ~~process.]~~

24 ~~[(3) Unless the governor certifies that all program~~
25 ~~objectives are being met, funds apportioned to urbanized or to~~

NOTE: Additions underlined

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GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~nonurbanized areas will be available only to fund projects in~~
2 ~~urbanized or nonurbanized areas, respectively.]~~

3 ~~[(4) The origination location of the riders, not their~~
4 ~~destination, shall be the basis for determining which~~
5 ~~apportionment the department uses to fund an approved project.]~~

6 ~~[(5) At a minimum, the department will publish a~~
7 ~~notice in the Texas Register soliciting proposals for the award~~
8 ~~of §5316 JARC grants. An eligible entity may submit a proposal~~
9 ~~for an eligible project in response to the published notice.]~~

10 ~~[(A) The proposal must include a detailed~~
11 ~~description of:]~~

12 ~~[(i) the project and the need for the~~
13 ~~project;]~~

14 ~~[(ii) how the award of transportation JARC~~
15 ~~funds will expand the availability of employment related~~
16 ~~transportation services;]~~

17 ~~[(iii) how the project will:]~~

18 ~~[(I) promote the development of~~
19 ~~employment transportation services;]~~

20 ~~[(II) support local economic~~
21 ~~development and expand economic opportunity for economically~~
22 ~~disadvantaged individuals;]~~

23 ~~[(III) fully integrate the JARC program~~
24 ~~with other federal and state programs supporting public,~~
25 ~~employment, and human service transportation; and]~~

NOTE: Additions underlined

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GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~[(m) Vehicle leasing. Vehicles acquired under the §5316~~
2 ~~program may be leased to other entities, with prior department~~
3 ~~approval, such as local public entities or agencies, private~~
4 ~~non-profit agencies, or private for-profit operators. The~~
5 ~~lessee shall operate the vehicles on behalf of the §5316~~
6 ~~subrecipient and provide the transportation services as~~
7 ~~described in the grant application. The §5316 subrecipient is~~
8 ~~responsible for seeing that all federal and state rules and~~
9 ~~regulations are observed by the lessee.]~~

10 ~~[(n) Incidental vehicle use. A vehicle that is purchased~~
11 ~~with §5316 funds may be used for incidental uses that do not~~
12 ~~conflict with the primary use of the vehicle to provide~~
13 ~~transportation services for employment and employment-related~~
14 ~~transportation. Examples of permissible incidental uses are~~
15 ~~stopping for retail purchases en route home from the workday,~~
16 ~~allowing riders not engaged in employment activities to occupy~~
17 ~~vacant seats, delivering meals, or using the vehicle for other~~
18 ~~public transportation activities when it is not required for~~
19 ~~JARC project purposes. The vehicle shall not be altered in any~~
20 ~~way to accommodate incidental use.]~~

21 ~~[(o) Disposition of vehicles at end of the grant. If a~~
22 ~~subrecipient is no longer receiving funds for a JARC project and~~
23 ~~has purchased a vehicle with JARC funds, the vehicle may be~~
24 ~~transferred to another subrecipient, in accordance with state~~
25 ~~laws and procedures governing disposition requirements.]~~

26

NOTE: Additions underlined

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GCD: 10/17/2017 9:18 AM

Exhibit D

1 [~~§31.18. Section 5317 Grant Program.~~]

2 [~~(a) Applicability. The United States Congress repealed 49~~
3 ~~U.S.C. §5317, with the passage of Moving Ahead for Progress in~~
4 ~~the 21st Century (MAP-21). This section applies only to~~
5 ~~subrecipients receiving grants with funds appropriated under~~
6 ~~federal authorization bills prior to the enactment of MAP-21.]~~

7 [~~(b) Purpose. Section 5317, Federal Transit Act, (49~~
8 ~~U.S.C. §5317), authorizes the Secretary of the U.S. DOT to make~~
9 ~~grants for public transportation projects that provide new~~
10 ~~public transportation services and public transportation~~
11 ~~alternatives beyond those currently required by the Americans~~
12 ~~with Disabilities Act of 1990 (ADA) that assist individuals with~~
13 ~~disabilities with transportation, including transportation to~~
14 ~~and from jobs and employment support services. The commission~~
15 ~~has been designated by the governor to administer the §5317~~
16 ~~program, known as the New Freedom Program, or NF, in areas with~~
17 ~~less than 200,000 population.]~~

18 [~~(c) Goal and objectives. The department's goal in~~
19 ~~administering the §5317 program is to provide new or improved~~
20 ~~public transportation services and alternatives, beyond the~~
21 ~~requirements of the ADA, to assist individuals with~~
22 ~~disabilities. To achieve this goal, the department's objectives~~
23 ~~are to:~~]

24 [~~(1) promote the development and maintenance of a~~
25 ~~network of transportation services and alternatives, beyond the~~
26 ~~requirements of the ADA, for individuals with disabilities~~

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~throughout the state, in partnership with local officials,~~
2 ~~public and private non-profit agencies, and operators of public~~
3 ~~transportation services;]~~

4 ~~[(2) fully integrate the §5317 program with other~~
5 ~~federal, state, and local resources and programs that are~~
6 ~~designed to serve similar populations;]~~

7 ~~[(3) foster the development of local, coordinated~~
8 ~~public transit-human service transportation plans from which NF~~
9 ~~projects are derived;]~~

10 ~~[(4) improve the efficiency, effectiveness, and safety~~
11 ~~of §5317 project providers through the provision of technical~~
12 ~~assistance; and]~~

13 ~~[(5) include private sector operators in the overall~~
14 ~~plan to provide NF program transportation services for~~
15 ~~individuals with disabilities.]~~

16 ~~[(d) Department role. The department acts as the~~
17 ~~designated recipient for §5317 funds apportioned to the state~~
18 ~~for all urbanized areas with less than 200,000 population and~~
19 ~~all nonurbanized areas. The subrecipient shall retain control~~
20 ~~of daily operations.]~~

21 ~~[(e) Project types.]~~

22 ~~[(1) New public transportation service projects,~~
23 ~~"beyond ADA", include:]~~

24 ~~[(A) providing paratransit services beyond~~
25 ~~minimum requirements (3/4 mile to either side of a fixed route)~~
26 ~~for a transit provider operating fixed route service;]~~

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~[(B) making accessibility improvements to~~
2 ~~existing transit and intermodal stations not designated as key~~
3 ~~stations; for example, adding an elevator or ramps, detectable~~
4 ~~warnings, improving signage;]~~

5 ~~[(C) building an accessible path to a bus stop~~
6 ~~that is currently inaccessible, including curb cuts, sidewalks,~~
7 ~~pedestrian signals or other accessible features;]~~

8 ~~[(D) implementing technology improvements that~~
9 ~~enhance accessibility for individuals with disabilities;]~~

10 ~~[(E) implementing "same day" paratransit~~
11 ~~services; and]~~

12 ~~[(F) otherwise facilitating or providing~~
13 ~~transportation services beyond ADA requirements, including~~
14 ~~transportation to and from employment and employment-related~~
15 ~~destinations.]~~

16 ~~[(2) New public transportation alternatives, "beyond~~
17 ~~ADA", include:]~~

18 ~~[(A) purchasing vehicles and supporting~~
19 ~~accessible taxi, ride-sharing, and vanpooling programs;]~~

20 ~~[(B) supporting voucher programs for~~
21 ~~transportation services offered by human service providers;]~~

22 ~~[(C) supporting volunteer driver and aide~~
23 ~~programs;]~~

24 ~~[(D) acquiring transportation services by a~~
25 ~~contract, lease, or other arrangement;]~~

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~[(E) supporting mobility management and~~
2 ~~coordination programs among public transportation providers and~~
3 ~~other human service agencies providing transportation;]~~

4 ~~[(F) new feeder service (transit service that~~
5 ~~provides access) to commuter rail, commuter bus, intercity rail~~
6 ~~and intercity bus stations, for which complementary paratransit~~
7 ~~service is not required under the ADA;]~~

8 ~~[(G) new training programs for individual users~~
9 ~~on awareness, knowledge, and skills of public and alternative~~
10 ~~transportation options available in their communities. This~~
11 ~~includes travel instruction and travel training services; and]~~

12 ~~[(H) otherwise facilitating or providing new~~
13 ~~transportation services for individuals with disabilities,~~
14 ~~including transportation to and from employment and employment-~~
15 ~~related destinations.]~~

16 ~~[(f) Eligible subrecipients.]~~

17 ~~[(1) State agencies, local governmental entities,~~
18 ~~private nonprofit organizations, private for-profit operators,~~
19 ~~and operators of public transportation services are eligible to~~
20 ~~receive §5317 funds through the department.]~~

21 ~~[(2) Applicants who are subrecipients of public~~
22 ~~transportation funds through another program administered by the~~
23 ~~department must be in good standing with the department as~~
24 ~~defined in §31.3 of this chapter (relating to Definitions).]~~

25 ~~[(g) Eligible assistance categories include:]~~

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~[(1) State administrative expenses. The department~~
2 ~~may use up to 10 percent of the annual federal apportionment for~~
3 ~~urbanized areas with less than 200,000 population and~~
4 ~~nonurbanized areas to defray its expenses incurred for the~~
5 ~~planning and administration of the §5317 program. State~~
6 ~~administrative and technical assistance expenses do not require~~
7 ~~a non-federal match.]~~

8 ~~[(2) Capital expenses.]~~

9 ~~[(A) Eligible items include:]~~

10 ~~[(i) buses, vans, or other paratransit~~
11 ~~vehicles, fare boxes, wheelchair lifts and restraints;]~~

12 ~~[(ii) radios and communications equipment;]~~

13 ~~[(iii) accessibility aids;]~~

14 ~~[(iv) equipment installation costs;]~~

15 ~~[(v) vehicle procurement, testing,~~
16 ~~inspection, and acceptance costs;]~~

17 ~~[(vi) vehicle rebuilding or overhaul;]~~

18 ~~[(vii) capital and operational support~~
19 ~~including computer hardware or software, with prior department~~
20 ~~approval;]~~

21 ~~[(viii) preventive maintenance, including~~
22 ~~all maintenance costs, with prior department approval;]~~

23 ~~[(ix) transit-related intelligent~~
24 ~~transportation systems;]~~

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~[(x) the introduction of new technology,~~
2 ~~through innovative and improved products, into public~~
3 ~~transportation;]~~

4 ~~[(xi) curb cuts, sidewalks, pedestrian~~
5 ~~signals or other accessible features;]~~

6 ~~[(xii) mobility management;]~~

7 ~~[(xiii) the lease of vehicles or equipment,~~
8 ~~provided that the subrecipient, with the concurrence of the~~
9 ~~department, determines that a lease is more cost effective than~~
10 ~~the purchase after considering management efficiency,~~
11 ~~availability of equipment, staffing capabilities, and guidelines~~
12 ~~on capital leases as contained in 49 C.F.R. Part 639; and]~~

13 ~~[(xiv) the capital portions of costs for~~
14 ~~service under contract.]~~

15 ~~[(B) For reimbursement:]~~

16 ~~[(i) federal funds may be used to reimburse~~
17 ~~up to 80 percent of eligible capital expenditures;]~~

18 ~~[(ii) the federal share may increase up to~~
19 ~~90 percent for incremental costs related to compliance with the~~
20 ~~Clean Air Act or with the ADA; and]~~

21 ~~[(iii) eligibility standards for the higher~~
22 ~~federal share are defined in FTA Circular 9045.1, or its latest~~
23 ~~version.]~~

24 ~~[(3) Project administration. Administrative costs~~
25 ~~associated with a NF project are eligible for a federal~~
26 ~~reimbursement rate of 50 percent.]~~

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~[(4) Operating expenses. Operating expenses are~~
2 ~~reimbursed at 50 percent of net operating expenses. Operating~~
3 ~~expenses are those costs directly tied to systems operations.~~
4 ~~FTA Circular 9030.1C, or its latest published version, shall be~~
5 ~~the guide for determining eligible operating expenses not~~
6 ~~specifically listed in this paragraph. Examples are:]~~

7 ~~[(A) fuel and oil;]~~

8 ~~[(B) maintenance, with prior department~~
9 ~~approval;]~~

10 ~~[(C) driver, dispatcher, and mechanic salaries;]~~

11 ~~[(D) purchase of service;]~~

12 ~~[(E) reimbursement of costs associated with a~~
13 ~~volunteer driver program; and]~~

14 ~~[(F) purchase of vouchers.]~~

15 ~~[(h) Ineligible expenses include:]~~

16 ~~[(1) extended vehicle warranties;]~~

17 ~~[(2) purchase and/or maintenance of vehicles intended~~
18 ~~for private use;]~~

19 ~~[(3) marketing;]~~

20 ~~[(4) planning;]~~

21 ~~[(5) purchase of transit passes for use on fixed route~~
22 ~~or ADA complementary paratransit services; and]~~

23 ~~[(6) other FTA prohibited expenses.]~~

24 ~~[(i) Local share requirements.]~~

25 ~~[(1) Eligible match sources include local, state, or~~
26 ~~federal program funds disbursed from the Texas Workforce~~

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~Commission, local workforce development boards, human service~~
2 ~~agencies and the Medicaid Medical Transportation Program.~~
3 ~~Unrestricted federal funds are also eligible as match, such as~~
4 ~~Temporary Assistance for Needy Families (42 U.S.C.~~
5 ~~§603(a)(5)(C)(vii)). With prior department approval, in-kind~~
6 ~~contributions, volunteer services, and donations directly~~
7 ~~attributable to the project are eligible as local share if the~~
8 ~~value is documented.]~~

9 ~~[(2) Other U.S. Department of Transportation program~~
10 ~~funds cannot be used as the local share required for §5317~~
11 ~~grants. Fares cannot be used as match for any expense but must,~~
12 ~~instead, be used to determine the net operating expense to~~
13 ~~reduce the amount of requested reimbursement.]~~

14 ~~[(j) Planning requirement.]~~

15 ~~[(1) Projects submitted in response to the~~
16 ~~department's call for projects must be derived from a locally~~
17 ~~developed, coordinated public transit-human service~~
18 ~~transportation plan. The plan must be developed through a~~
19 ~~process that includes representatives of public, private, and~~
20 ~~nonprofit transportation and human service providers and~~
21 ~~participation by the public.]~~

22 ~~[(2) The commission supports the development of~~
23 ~~regional service plans that respond to the department's charge~~
24 ~~in Transportation Code, §461.004 to identify:]~~

25 ~~[(A) overlaps and gaps in the provision of public~~
26 ~~transportation services including services that could be more~~

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~effectively provided by existing, privately funded~~
2 ~~transportation resources;~~]

3 ~~[(B) underused equipment owned by public~~
4 ~~transportation providers; and]~~

5 ~~[(C) inefficiencies in the provision of public~~
6 ~~transportation services by any public transportation provider.]~~

7 ~~[(3) The commission anticipates that the regional~~
8 ~~service planning process will be used to meet the requirements~~
9 ~~of the local coordinated planning process defined in paragraph~~
10 ~~(1) of this subsection. Regions interested in participating in~~
11 ~~the NF program shall develop and prioritize §5317 projects in~~
12 ~~response to the opportunities to improve transportation for~~
13 ~~individuals with disabilities uncovered in the regional planning~~
14 ~~process and documented in the plan.]~~

15 ~~[(4) An NF project must:]~~

16 ~~[(A) contain goals and objectives;]~~

17 ~~[(B) discuss rider origination location and~~
18 ~~destinations and how the project fills the transportation gap by~~
19 ~~providing new transportation services or new transportation~~
20 ~~alternatives beyond ADA requirements;]~~

21 ~~[(C) describe how it implements the regional~~
22 ~~service plan;]~~

23 ~~[(D) explain how the project will maximize use of~~
24 ~~existing transportation service providers;]~~

25 ~~[(E) provide a cost estimate; and]~~

26 ~~[(F) identify match sources.]~~

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~[(G) Where transportation to employment or~~
2 ~~employment-related destinations is part of the project, any~~
3 ~~employer-provided or employer-assisted transportation service~~
4 ~~strategies incorporated in the project must also be identified.]~~

5 ~~[(k) Allocation of funds. As part of its administration of~~
6 ~~the §5317 program, the department is charged with ensuring that~~
7 ~~there is a fair and equitable distribution of program funds~~
8 ~~within the state.]~~

9 ~~[(1) The department will act as the designated~~
10 ~~recipient for projects in urbanized areas with less than 200,000~~
11 ~~population and in nonurbanized areas. Of the amount apportioned~~
12 ~~to these areas by FTA's annual publication in the Federal~~
13 ~~Register, the department may use up to 10 percent of the total~~
14 ~~for its administrative, planning, and technical assistance~~
15 ~~activities to support the NF program statewide.]~~

16 ~~[(2) The department will allocate the remaining §5317~~
17 ~~funds to subrecipients through a competitive selection process.]~~

18 ~~[(3) Funds apportioned to urbanized areas with less~~
19 ~~than 200,000 population will be available only to fund projects~~
20 ~~in these geographic areas.]~~

21 ~~[(4) Funds apportioned to nonurbanized areas will be~~
22 ~~available only for projects serving nonurbanized areas.]~~

23 ~~[(5) The origin of the riders, not their destination,~~
24 ~~shall be the basis for determining which apportionment the~~
25 ~~department uses to fund an approved project.]~~

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~[(6) At a minimum, the department will publish a~~
2 ~~notice in the Texas Register soliciting proposals for the award~~
3 ~~for §5317 NF grants.]~~

4 ~~[(A) An eligible entity may submit a proposal for~~
5 ~~an eligible project in response to the published notice. The~~
6 ~~proposal must include a detailed description of:]~~

7 ~~[(i) the project and the need for the~~
8 ~~project:]~~

9 ~~[(ii) the methods by which the award of~~
10 ~~transportation NF funds will provide new transportation services~~
11 ~~or new alternatives, beyond ADA requirements, for individuals~~
12 ~~with disabilities:]~~

13 ~~[(iii) how the project will:]~~

14 ~~[(I) promote the development and~~
15 ~~maintenance of a network of transportation services for~~
16 ~~individuals with disabilities:]~~

17 ~~[(II) expand economic opportunity for~~
18 ~~individuals with disabilities:]~~

19 ~~[(III) fully integrate the NF program~~
20 ~~with other federal, state, and local resources and programs that~~
21 ~~are designed to serve similar populations; and]~~

22 ~~[(IV) improve the efficiency,~~
23 ~~effectiveness, and safety of transportation services for~~
24 ~~individuals with disabilities.]~~

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~[(B) The proposal must describe the project's~~
2 ~~relationship to the locally developed, coordinated public~~
3 ~~transit-human service transportation plan.]~~

4 ~~[(C) The department may require supplemental~~
5 ~~information to clarify the issues described in paragraph (6)(A)~~
6 ~~and (B) of this subsection.]~~

7 ~~[(1) Grant Award.]~~

8 ~~[(1) After commission and FTA approval of the program~~
9 ~~of projects, the department will enter into grant agreements~~
10 ~~with individual subrecipients. A subrecipient must comply with~~
11 ~~all requirements, rules, and regulations applicable to the §5317~~
12 ~~program.]~~

13 ~~[(2) The commission will make the final selection of~~
14 ~~projects and will select projects based on the potential of the~~
15 ~~project to:]~~

16 ~~[(A) reduce congestion;]~~

17 ~~[(B) expand economic opportunity;]~~

18 ~~[(C) enhance safety;]~~

19 ~~[(D) improve air quality; and]~~

20 ~~[(E) increase the value of transportation~~
21 ~~assets.]~~

22 ~~[(3) Failure to expend funds in a timely manner may~~
23 ~~cause the department to terminate the grant and re-award the~~
24 ~~unobligated balance to another project.]~~

25 ~~[(m) Vehicle leasing. Vehicles acquired under the §5317~~
26 ~~program may be leased to other entities, with prior department~~

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~approval, such as local public entities or agencies, private~~
2 ~~nonprofit agencies, or private for-profit operators. The lessee~~
3 ~~shall operate the vehicles on behalf of the §5317 recipient and~~
4 ~~provide the transportation services as described in the grant~~
5 ~~application. The §5317 recipient is responsible for seeing that~~
6 ~~all federal and state rules and regulations are observed by the~~
7 ~~lessee.]~~

8 ~~[(n) Incidental vehicle use. A vehicle that is purchased~~
9 ~~with §5317 funds may be used for incidental uses that do not~~
10 ~~conflict with the primary use of the vehicle to provide new or~~
11 ~~alternative transportation services beyond ADA requirements.~~
12 ~~Examples of permissible incidental uses are meal delivery,~~
13 ~~allowing able-bodied persons to occupy vacant seats or using the~~
14 ~~vehicle for other public transportation activities not required~~
15 ~~for its NF project purposes. The vehicle shall not be altered~~
16 ~~in any way to accommodate incidental use.]~~

17 ~~[(o) Disposition of vehicles at end of the grant. If a~~
18 ~~subrecipient is no longer receiving funds for an NF project and~~
19 ~~has purchased a vehicle with NF funds, the vehicle may be~~
20 ~~transferred to another subrecipient, in accordance with state~~
21 ~~laws and procedures governing disposition requirements.]~~

22

23 §31.30. Section 5339 Grant Program.

24 (a) Purpose. Title 49 U.S.C. §5339 authorizes the
25 Secretary of the U.S. DOT to make grants for bus and bus
26 facilities.

NOTE: Additions underlined

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GCD: 10/17/2017 9:18 AM

Exhibit D

1 (b) Eligible recipients. Section 5339 funds are available
2 to states and local public entities.

3 (c) Department role. The department acts as the designated
4 recipient for §5339 grants to §5307 transit districts [~~agencies~~]
5 in small urbanized areas [~~with less than 200,000 population~~] and
6 §5311 rural transit districts [~~agencies~~]. [~~As the administering~~
7 ~~agency, the department will:~~]

8 (d) Small urban transit districts. The department will:

9 (1) allocate the available program funds so that each
10 eligible recipient will receive a proportional share of
11 available funding based on the total vehicle miles reported to
12 the department on an annual basis with no eligible recipient
13 receiving less than one percent of the amount available;

14 (2) notify the FTA of the results of the allocation
15 calculations;

16 (3) notify the small urban transit districts of the
17 results of the allocation calculations; and

18 (4) authorize the small urban transit districts to
19 apply directly with the FTA for the funds, due to their status
20 as direct recipients under the FTA §5307 program.

21 (e) Rural transit districts. The department will:

22 (1) allocate the available program funds so that each
23 eligible subrecipient will receive a proportional share of
24 available funding based on the total vehicle miles reported to
25 the department on an annual basis with no eligible subrecipient
26 receiving less than one percent of the amount available

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 ~~[allocate the available program funds so that each eligible~~
2 ~~subrecipient will receive a proportional share of available~~
3 ~~funding based on the remaining useful life of its public~~
4 ~~transportation fleet and the cost of replacing that fleet using~~
5 ~~the department's information system containing transit fleet~~
6 ~~data];~~

7 (2) develop application materials and disseminate
8 information to eligible subrecipients;

9 (3) prepare the state's funding application and submit
10 the application to the FTA for approval;

11 (4) negotiate and execute contracts with
12 subrecipients;

13 (5) prepare requests for federal reimbursement and
14 process payment requests from subrecipients;

15 (6) monitor and evaluate the progress of local
16 projects, including compliance with federal regulations; and

17 (7) provide technical assistance to subrecipients as
18 necessary.

19 (f)~~[(d)]~~ Eligible assistance categories. Eligible projects
20 are those listed in FTA Circular 5100.1 ~~[9300.1B]~~ or its latest
21 version. ~~[While fleet condition will determine each agency's~~
22 ~~allocation, §5339 funds can be used for any eligible activity in~~
23 ~~FTA Circular 9300.1B or its latest version.]~~

24 (g)~~[(e)]~~ Link to asset management plan. At such time as
25 the department implements the requirement of a transit asset
26 management plan, recipient or subrecipient projects must be

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 linked to the asset management plan required by §31.51 of this
2 chapter (relating to Asset Management) and 49 U.S.C. §5326.

3 (h)~~[(f)]~~ Reimbursement rates. For reimbursement:

4 (1) federal funds may be used to defray up to 80
5 percent of the cost of eligible capital expenditures;

6 (2) the federal share may increase to up to 85 percent
7 of the net project cost for a project that involves acquiring
8 vehicles for the purpose of complying with the Americans with
9 Disabilities Act or the Clean Air Act; and

10 (3) the federal share may increase to up to 90 percent
11 for incremental costs related to compliance with the Clean Air
12 Act in areas of air quality non-attainment or with the Americans
13 with Disabilities Act.

14 (i)~~[(g)]~~ Local share requirements. The non-federal share
15 may be provided by:

16 (1) cash from state or local governments;

17 (2) cash from non-government sources other than
18 revenues from providing public transportation services;

19 (3) revenues from the sale of advertising and
20 concessions;

21 (4) an undistributed cash surplus, a replacement or
22 depreciation cash fund or reserve, or new capital;

23 (5) service agreements with a state, local, or private
24 social service organization; or

25 (6) transportation development credits.

26

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GCD: 10/17/2017 9:18 AM

Exhibit D

1 §31.31. Section 5310 Grant Program.

2 (a) Purpose. Title 49 U.S.C. §5310 authorizes the
3 Secretary of the U.S. DOT to make grants for the provision of
4 transportation services meeting the special needs of seniors and
5 individuals with disabilities. The governor has designated the
6 department to administer the §5310 program.

7 (b) Goal and objectives. The department's goal in
8 administering the §5310 program is to promote the availability
9 of cost-effective, efficient, and coordinated passenger
10 transportation services planned, designed, and carried out to
11 meet the special needs of seniors and individuals with
12 disabilities when public transportation is insufficient,
13 inappropriate, or unavailable, using the most efficient
14 combination of financial and other resources. To achieve this
15 goal, the department's objectives are to:

16 (1) promote the development and maintenance of a
17 network of transportation services for seniors and individuals
18 with disabilities throughout the state, in partnership with
19 local stakeholders;

20 (2) fully integrate the §5310 program with other
21 federal, state, and local resources and programs that are
22 designed to serve similar populations;

23 (3) promote public transportation projects that exceed
24 the requirements of the Americans with Disabilities Act (ADA);

1 (4) promote public transportation projects that
2 decrease the reliance of individuals with disabilities on ADA
3 complementary paratransit services;

4 (5) promote and encourage local participation,
5 especially by seniors and individuals with disabilities or their
6 advocates, in decision-making;

7 (6) improve the efficiency, effectiveness, and safety
8 of §5310 transit systems through the provision of technical
9 assistance; and

10 (7) include private sector operators in the overall
11 plan to provide transportation services for seniors and
12 individuals with disabilities.

13 (c) Department role.

14 (1) The department acts as the designated recipient
15 for all §5310 funds appropriated to:

16 (A) a rural area;

17 (B) an urbanized area with less than 200,000
18 population; and

19 (C) an urbanized area with a population of
20 200,000 or more, on request of the metropolitan planning
21 organization of the urbanized area and concurrence by the
22 commission.

23 (2) The department recognizes the subrecipients as
24 partners who shall retain control of daily operations. As the
25 administering agency, the department will:

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 (A) develop application materials and disseminate
2 information to prospective applicants and other interested
3 parties;

4 (B) develop evaluation criteria and select
5 projects for funding, with input from local entities and local
6 individuals, in accordance with the standards set forth in
7 subsection (i) of this section;

8 (C) prepare the state's annual program of
9 projects and funding application and submit that material to the
10 FTA for approval;

11 (D) negotiate and execute contracts with local
12 §5310 recipients;

13 (E) prepare requests for federal reimbursement
14 and process payment requests from §5310 recipients;

15 (F) monitor and evaluate the progress of ongoing
16 transportation operations, including compliance with federal
17 regulations and coordination of services; and

18 (G) provide technical assistance to §5310
19 recipients to aid them in improving and coordinating transit
20 services.

21 (3) Failure to expend funds in a timely manner may
22 cause the department to terminate the grant and re-award the
23 unobligated balance to another project.

24 (d) Eligible recipients.

25 (1) Existing rural transit districts and urban transit
26 districts serving a population of less than 200,000, local

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Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 public entities, private non-profit organizations, state and
2 local government authorities that coordinate services for
3 seniors and individuals with disabilities, or private taxi
4 companies that provide shared-ride taxi service to the public or
5 to special categories of users (such as seniors or individuals
6 with disabilities) are eligible [~~will be the primary~~] recipients
7 of funds [~~for their respective service areas~~].

8 (2) For an area included in a rural or urban transit
9 district's service area [~~not covered by a transit provider or~~]
10 for which the existing transit district [~~provider~~] is not
11 willing or able to provide the transportation, the director may
12 choose a local public entity or a private organization as a [an
13 alternate] recipient to receive §5310 funds. Private taxi
14 companies that provide shared-ride taxi service to the public or
15 to special categories of users (such as seniors or individuals
16 with disabilities) on a regular basis are also eligible
17 [~~alternate~~] recipients. Any recipient that is not a transit
18 district shall coordinate §5310 service with the existing
19 transit district to ensure service is complementary to and not
20 competitive with existing services.

21 (3) If the department is the designated recipient for
22 an urbanized area with 200,000 population or more, a recipient
23 for that area will be selected from local transportation
24 providers who are transit authorities or eligible alternate
25 recipients under this program.

1 (e) Eligible assistance categories. The following
2 categories of expenses are eligible for federal reimbursement
3 under the §5310 program.

4 (1) State administrative expenses. The department may
5 use up to 10 percent of the annual federal program apportionment
6 to defray its expenses incurred for the administration of the
7 §5310 program. State administrative expenses do not require a
8 non-federal match.

9 (2) Capital expenses.

10 (A) With department concurrence, eligible items
11 include:

12 (i) buses;

13 (ii) vans or other smaller accessible

14 [~~paratransit~~] vehicles;

15 (iii) the acquisition of transportation
16 services under a contract, lease, or other arrangement;

17 (iv) mobility management;

18 (v) curb cuts, sidewalks, pedestrian signals
19 or other accessible features;

20 (vi) radios and communication equipment;

21 (vii) vehicle shelters;

22 (viii) [~~wheelchair~~] lifts, ramps, and
23 securement devices [~~restraints~~];

24 (ix) vehicle rehabilitation, remanufacture,
25 or overhaul;

26 (x) [~~micro~~]computer hardware and software;

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 (xi) initial component installation costs;

2 (xii) vehicle procurement, testing,

3 inspection, and acceptance costs;

4 (xiii) vehicle extended warranties that do

5 not exceed industry standards;

6 (xiv) the lease of equipment, provided that

7 the local recipient determines a lease is more cost effective

8 than the purchase of equipment after considering management

9 efficiency, availability of equipment, staffing capabilities,

10 and guidelines on capital leases as contained in 49 C.F.R. Part

11 639;

12 (xv) transit-related intelligent

13 transportation systems;

14 (xvi) the introduction of new technology,

15 through innovative and improved products, into mass

16 transportation; and

17 (xvii) the acquisition of preventive

18 maintenance services and vehicle parts associated with

19 preventive maintenance services.

20 (B) For reimbursement:

21 (i) federal funds may be used to defray up

22 to 80 percent of the cost of eligible capital expenditures;

23 (ii) the federal share may increase to up to

24 85 percent of the net project cost for a project that involves

25 acquiring vehicles for the purpose of complying with the

26 Americans with Disabilities Act or the Clean Air Act; and

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 (iii) the federal share may increase to up
2 to 90 percent for incremental costs related to compliance with
3 the Clean Air Act in areas of air quality non-attainment or with
4 the Americans with Disabilities Act.

5 (3) Operating expenses.

6 (A) Operating expenses are costs that are
7 directly tied to systems operations, such as costs for fuel,
8 oil, and replacement parts, and driver, mechanic, and dispatcher
9 salaries.

10 (B) Operating expenses may be reimbursed at 50
11 percent of net operating expense.

12 (f) Local share requirements.

13 (1) Eligible sources to satisfy local share
14 requirements may be derived from the following:

15 (A) an undistributed cash surplus, or a
16 replacement or depreciation cash fund or reserve;

17 (B) a service agreement with a state or local
18 social service or workforce agency, or a private social service
19 organization;

20 (C) amounts appropriated or otherwise made
21 available to a U.S. department or agency that are eligible to be
22 expended for transportation;

23 (D) funds to carry out the federal lands highways
24 program established by 23 U.S.C. §204;

25 (E) funds available under §403(a)(5)(C)(vii) of
26 the Social Security Act (42 U.S.C. §603(a)(5)(C)(vii));

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 (F) in-kind contributions, volunteer services,
2 and donations attributable to the project if the value is
3 documented and previously approved by the department; or

4 (G) transportation development credits, with
5 prior department approval.

6 (2) Funds from any other U.S.DOT program are not
7 eligible for use as local matching funds.

8 (g) Funding distribution. After the state administrative
9 expenses described in subsection (e)(1) of this section are set
10 aside, funds will be allocated on a formula basis as provided by
11 this subsection.

12 (1) For urbanized areas with a population less than
13 200,000, 25 percent of the available funds will be allocated
14 equally, using department district boundaries of the districts
15 that include such an area. To allocate the remaining 75
16 percent, the department will:

17 (A) calculate the population of seniors and
18 individuals with disabilities in each of those urbanized areas
19 using the latest census figures available from the United States
20 Census Bureau; and

21 (B) divide each urbanized area's population of
22 seniors and individuals with disabilities, as determined under
23 subparagraph (A) of this paragraph, by the state's total
24 population for urbanized areas with less than 200,000 population
25 to determine that urbanized area's formula allocation.

1 (2) For rural areas, 25 percent of the available funds
2 will be allocated equally, using department district boundaries
3 of the districts that include such an area. To allocate the
4 remaining 75 percent, the department will:

5 (A) calculate the population of seniors and
6 individuals with disabilities in each department district using
7 the latest census figures for counties available from the United
8 States Census Bureau; and

9 (B) divide each department district's subtotal of
10 the population of seniors and individuals with disabilities, as
11 determined under subparagraph (A) of this paragraph, by the
12 state total of that population in rural areas to determine the
13 district's formula allocation.

14 (3) For urbanized areas with 200,000 population or
15 more for which the department is the designated recipient, funds
16 will be allocated to the respective urbanized area based on the
17 federal apportionment as published in the Federal Register.

18 (4) Residual funds.

19 (A) Urbanized areas with populations of less than
20 200,000 and rural areas. On completion of the project selection
21 procedures described in subsection (i) of this section, if any
22 portion of the allocation described in paragraph (1) or (2) of
23 this subsection is not needed, the commission or the executive
24 director may distribute the balances, as appropriate, to satisfy
25 unmet needs in other areas of the state. This action may
26 require the department to transfer funds, at the state level,

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 between urbanized and rural areas to fully obligate the state's
2 apportionment.

3 (B) Urbanized areas with populations of 200,000
4 or more. On completion of the project selection procedures
5 described in subsection (i) of this section, any unallocated
6 funds for urbanized areas with populations of 200,000 or more
7 will remain in that urbanized area until allocated at a future
8 date.

9 (h) Application requirements. A prospective applicant must
10 submit an application for §5310 grant funds at the time
11 specified by the department. The application must document the
12 need and demand for passenger transportation services for
13 seniors and individuals with disabilities, and also must
14 document inclusion of the project in the coordinated public
15 transit-human service transportation plan.

16 (i) Project selection. To select projects, the department
17 will consult with all local parties, including metropolitan
18 planning organizations, and follow the procedures set out in
19 this subsection.

20 (1) The department [~~Department personnel~~] will
21 establish public outreach processes involving[~~, after~~
22 ~~consultation with~~] local stakeholders[~~, processes for local~~
23 ~~planning and project development, and public outreach~~]. In an
24 effort to streamline decision-making processes and maximize
25 coordination opportunities, the department may choose to combine
26 contiguous department district boundaries for stakeholder

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 engagement, project selection, and public outreach. The
2 stakeholder groups should include representatives of the
3 following groups, further defined in FTA Circular 9070.1G~~[F]~~, or
4 its latest version:

- 5 (A) transportation partners;
- 6 (B) passengers and advocates;
- 7 (C) human service and work force agencies; and
- 8 (D) others, such as emergency management
9 agencies.

10 (2) In recommending projects, the department will
11 ~~[stakeholder groups should]~~ consider the program goals and
12 objectives set forth in subsection (b) of this section and
13 consider projects that:

- 14 (A) leverage existing resources and promote
15 innovation;
- 16 (B) are the only public transportation option for
17 the proposed service area;
- 18 (C) are sustainable over time;
- 19 (D) demonstrate efficient use of resources;
- 20 (E) involve partnerships that include
21 organizations [and for-profit transportation providers]; or
22 (F) provide service continuity.

23 (3) At least 55 percent of the funds allocated by
24 district boundaries or combination of district boundaries shall
25 be used for capital expenses.

1 (4)~~[(3)]~~ Not more than 45 percent of the funds
2 allocated by district boundaries or combination of district
3 boundaries may be used for operating expenses. This cap applies
4 to both urbanized areas and rural areas, respectively.

5 (5)~~[(4)]~~ The requirements of this subparagraph apply
6 to all projects recommended for funding.

7 (A) There must be a demonstrated need for any
8 capital purchases. Examples of items that may be used to
9 demonstrate need include a needs assessment that documents the
10 demand for new services, a vehicle inventory that establishes
11 the need for replacement of older equipment, dispatcher logs
12 that document requests for service that cannot be met with
13 existing equipment, and purchase of service contracts that
14 substantiate the need for additional vehicles.

15 (B) The proposed applicant must be able to
16 demonstrate its financial and managerial capability to carry out
17 the project. Examples of items that may be used to demonstrate
18 the capability include audited financial statements and review
19 letters from grantor agencies.

20 (C) Consideration should be given to the
21 applicant's past efforts to coordinate services and related
22 activities with other local entities. Examples showing those
23 efforts include contracts that outline purchase of service
24 agreements, shared maintenance or dispatching functions, and
25 joint training initiatives.

1 (D) There should be evidence of local support for
2 the proposal. Examples of that evidence include resolutions by
3 local governing bodies and endorsement letters from other
4 organizations or individuals.

5 (E) The project must be included in the
6 coordinated public transit-human service transportation plan.

7 (6)~~[(5)]~~ Based on stakeholder input, department
8 personnel assigned to cover district areas will rank projects in
9 priority order.

10 (7)~~[(6)]~~ On receipt of the applications recommended
11 for funding, the director, or the director's designee, will
12 review all funding requests for completeness and compliance with
13 all statutory and program administrative requirements.
14 Following commission approval, the department will negotiate a
15 contract with the selected local entities and organizations to
16 implement the projects selected for funding.

17 (j) Vehicle leasing. Vehicles acquired under the §5310
18 program may be leased to other entities, such as local public
19 entities or agencies, other private nonprofit agencies, or
20 private for-profit operators. The lessee shall operate the
21 vehicles on behalf of the §5310 recipient and provide the
22 transportation services as described in the original grant
23 application.

24 (k) Incidental vehicle use. A vehicle that is purchased
25 with §5310 funds may be used for incidental uses that do not
26 conflict with the primary use of the vehicle to provide

1 transportation services for seniors and individuals with
2 disabilities. Examples of permissible incidental uses are
3 allowing riders who are neither senior nor an individual with a
4 disability to occupy vacant seats, delivering meals, or using
5 the vehicle for other public transportation activities when it
6 is not required for seniors or individuals with disabilities
7 project purposes. The vehicle shall not be altered in any way
8 to accommodate incidental use.

9 (1) Private for-profit transportation business
10 participation. Taxi companies that provide only exclusive-ride
11 service are not eligible subrecipients; however, they may
12 participate in the §5310 program as contractors. Exclusive-ride
13 taxi companies may receive §5310 funds to purchase accessible
14 taxis under contract with an eligible subrecipient.

15

16 §31.36. Section 5311 Grant Program.

17 (a) Purpose. Section 5311, Federal Transit Act (49 U.S.C.
18 §5311), authorizes the Secretary of the U.S. DOT to make grants
19 for public transportation projects in rural areas. The
20 department has been designated by the governor to administer the
21 §5311 program.

22 (b) Goal and objectives. The department's goal in
23 administering the §5311 program is to promote the availability
24 of cost-effective, efficient, and coordinated passenger
25 transportation services to the general public in rural areas
26 using the most efficient combination of financial and other

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

1 resources. To achieve this goal, the objectives of the
2 department are to:

3 (1) promote the development and maintenance of a
4 network of general public transportation services, including
5 intercity services, in rural areas throughout the state, in
6 partnership with local officials;

7 (2) fully integrate the §5311 program with other
8 federal, state, and local resources that are designed to serve
9 rural populations;

10 (3) improve the efficiency, effectiveness, and safety
11 of §5311 systems through the provision of technical assistance;
12 [and]

13 (4) include private sector operators in the overall
14 plan to provide public transportation services; and[=]

15 (5) minimize negative impacts from changes in public
16 transportation district boundaries.

17 (c) Department role. The department acts as the designated
18 recipient for all §5311 funds apportioned to the state and has
19 an oversight responsibility for all rural transit services
20 within the state. The department, however, recognizes the
21 subrecipients as partners who shall retain control of daily
22 operations. As the administering agency, the department will:

23 (1) develop application materials and disseminate
24 information to prospective applicants and other interested
25 parties;

1 (2) allocate the available program funds in a fair and
2 equitable manner as described in subsection (g) of this section
3 (the department will not provide §5311 funds to more than one
4 transit system in a geographical area);

5 (3) develop evaluation criteria and select projects
6 for funding;

7 (4) prepare the state's annual program of projects and
8 funding application and submit that material to the FTA for
9 approval;

10 (5) negotiate and execute contracts with local §5311
11 subrecipients;

12 (6) prepare requests for federal reimbursement, and
13 process payment requests from §5311 subrecipients;

14 (7) monitor and evaluate the progress of ongoing
15 transportation operations, including compliance with federal
16 regulations; and

17 (8) provide technical assistance to §5311
18 subrecipients to aid them in improving transit services.

19 (d) Eligible subrecipients. State agencies, local public
20 entities, private nonprofit organizations, Native American
21 tribes and organizations, and operators of public transportation
22 services are eligible to receive §5311 funds through the
23 department. Private for-profit operators of public
24 transportation services may participate in the program through
25 contracts with eligible subrecipients. An entity must be a
26 rural transit district to receive §5311 funds except that

1 private for-profit operators of public transportation services
2 and entities that are not rural transit districts are eligible
3 to receive §5311 funds through the department under the
4 intercity bus program, as set forth in subsections (g)(1) and
5 (i) of this section.

6 (e) Eligible assistance categories. The following
7 categories of expenses are eligible for federal reimbursement
8 under the §5311 program.

9 (1) State administrative expenses. The department may
10 use up to 10 percent of the annual federal apportionment to
11 defray its expenses incurred for the administration of the §5311
12 program. These funds may also be used to provide technical
13 assistance to subrecipients. Technical assistance may include
14 project planning, program development, management development,
15 coordination of public transportation projects, and related
16 research. Projects are solicited from subrecipients and other
17 interested parties. State administrative and technical
18 assistance expenses do not require a non-federal match.

19 (2) Capital expenses.

20 (A) Eligible items include:

21 (i) buses;

22 (ii) vans or smaller accessible [~~other~~
23 ~~paratransit~~] vehicles;

24 (iii) radios and communications equipment;

25 (iv) passenger shelters, bus stop signs, and
26 similar passenger amenities;

NOTE: Additions underlined

Deletions in []

GCD: 10/17/2017 9:18 AM

Exhibit D

- 1 (v) wheelchair lifts and restraints;
- 2 (vi) vehicle rehabilitation, remanufacture,
3 or overhaul;
- 4 (vii) preventive maintenance, including all
5 maintenance costs;
- 6 (viii) extended warranties that do not
7 exceed the industry standard;
- 8 (ix) the public transportation~~[mass transit]~~
9 portion of ferry boats and terminals;
- 10 (x) operational support such as computer
11 hardware or software;
- 12 (xi) installation costs and vehicle
13 procurement, testing, inspection, and acceptance costs;
- 14 (xii) construction or rehabilitation of
15 transit facilities, including design, engineering, and land
16 acquisition;
- 17 (xiii) facilities to provide access for
18 bicycles to ~~[mass]~~ transit facilities and equipment for
19 transporting bicycles on ~~[mass]~~ transit vehicles;
- 20 (xiv) the lease of equipment or facilities,
21 provided that the local subrecipient, with the concurrence of
22 the department, determines that a lease is more cost effective
23 than the purchase of equipment or facilities after considering
24 management efficiency, availability of equipment, staffing
25 capabilities and guidelines on capital leases as contained in 49
26 C.F.R. Part 639;

NOTE: Additions underlined
Deletions in []
GCD: 10/17/2017 9:18 AM

Exhibit D

1 (xv) the capital portions of costs for
2 service under contract;

3 (xvi) joint development projects (FTA
4 Circular 9300.1B, or its latest version, provides guidelines for
5 joint development projects);

6 (xvii) the introduction of new technology,
7 through innovative and improved products, into mass
8 transportation;

9 (xviii) transit-related intelligent
10 transportation systems;

11 (xix) the provision of ADA paratransit
12 service, which shall not exceed 10 percent of the state's annual
13 apportionment of §5311 funds and shall be used only by
14 subrecipients that are in compliance with ADA requirements for
15 both fixed route and demand responsive service;

16 (xx) mobility management consisting of
17 short-range planning, management activities and projects for
18 improving coordination among public transportation, and other
19 transportation service providers carried out through an
20 agreement entered into with a person, including a governmental
21 authority, but excluding operating expenses; and

22 (xxi) crime prevention and security.

23 (B) The capital cost of contracting includes
24 depreciation, interest on facilities and equipment, and those
25 allowable capital costs that would otherwise be incurred
26 directly, including maintenance. No capital assets (vehicle,

1 equipment, or facility) that have any remaining federal interest
2 in them and no items purchased with state or local government
3 funds may be capitalized under the grant agreement.

4 (C) For reimbursement:

5 (i) federal funds may be used to reimburse
6 up to 80 percent of eligible capital expenditures;

7 (ii) the federal share may increase up to 85
8 percent of the net project cost for a project that involves
9 acquiring vehicles for the purpose of complying with the
10 Americans with Disabilities Act or the Clean Air Act;

11 (iii) the federal share may increase to up
12 to 90 percent for bicycle equipment or facilities projects or
13 for incremental costs related to compliance with the Clean Air
14 Act or with the Americans with Disabilities Act of 1990; and

15 (iv) the federal share may also increase in
16 accordance with 23 U.S.C. §120(b)(2) as determined by FTA
17 regarding the area of nontaxable Native American lands,
18 individual and tribal, public domain lands (reserved and
19 unreserved), national forest, and national parks and monuments,
20 with eligibility standards for the higher federal share being
21 defined in FTA Circular 9040.1G [~~9040.1F~~], or its latest
22 version.

23 (3) Project administrative expenses. Costs not
24 directly tied, but essential, to the operations of passenger
25 transportation systems may be reimbursed at up to 80 percent
26 with federal funds. The federal share may also increase in

1 accordance with 23 U.S.C. §120(b)(2) as determined by FTA
2 regarding the area of nontaxable Native American lands,
3 individual and tribal, public domain lands (reserved and
4 unreserved), national forest, and national parks and monuments.
5 Eligibility standards for the higher federal share are defined
6 in FTA Circular 9040.1G [~~9040.1F~~], or its latest version.

7 (4) Operating expenses. Costs directly tied to
8 systems operations, such as costs for fuel, oil, and replacement
9 parts, and driver, mechanic, and dispatcher salaries, may be
10 reimbursed at 50 percent of net operating costs. The federal
11 share may also increase in accordance with 23 U.S.C. §120(b)(2)
12 as determined by FTA regarding the area of nontaxable Native
13 American lands, individual and tribal, public domain lands
14 (reserved and unreserved), national forest, and national parks
15 and monuments. Eligibility standards for the higher federal
16 share are defined in FTA Circular 9040.1G [~~9040.1F~~], or its
17 latest version. The local subrecipient must provide a match,
18 either in cash or with in-kind donations.

19 (5) Planning expenses may be reimbursed at up to 80
20 percent with federal funds. FTA Circular 8100.1C or its latest
21 version has a complete list of eligible activities, which
22 include:

23 (A) studies relating to management, planning,
24 operations, capital requirements, and economic feasibility;

25 (B) evaluation of previous planning projects;

1 (C) work elements and related activities
2 preliminary to and in preparation for constructing, acquiring,
3 or improving the operations of facilities and equipment;

4 (D) safety, security, and emergency
5 transportation and evacuation planning; and

6 (E) coordinated public transit-human service
7 transportation planning.

8 (f) Local share requirements.

9 (1) FTA program funds cannot be used as the local
10 share required for §5311 grants.

11 (2) Cash from local or state programs, donations, or
12 unrestricted federal funds is allowed.

13 (3) In-kind contributions, volunteer services, and
14 donations are eligible as local share if the value is
15 documented.

16 (4) For an intercity bus project that includes both
17 feeder service and an unsubsidized segment of intercity bus
18 service to which the feeder service connects, in-kind match may
19 be derived from the costs of a private operator for the
20 unsubsidized segment of intercity bus services for the operating
21 costs of connecting rural intercity bus feeder services. The
22 private operator must agree in writing to the use of the costs
23 of the unsubsidized segment of intercity bus services as in-kind
24 match.

25 (5) Subrecipients may request transportation
26 development credits be used for all or part of the local match.

1 (g) Allocation of funds. As part of its administration of
2 the §5311 program, the department is charged with ensuring that
3 there is a fair and equitable distribution of funds within the
4 state (FTA Circular 9040.1G [~~9040.1F~~] or its latest version).
5 After subtracting funds for state administrative expenses in
6 accordance with subsection (e)(1) of this section, the
7 department will allocate §5311 funds to local subrecipients in
8 the following manner and order.

9 (1) Intercity bus allocation. Unless the chief
10 executive officer of the state or the executive officer's
11 authorized designee certifies to the Secretary of the U.S. DOT
12 that the intercity bus service needs of the state are being
13 adequately met, the department will allocate not less than 15
14 percent of the annual §5311 federal apportionment for the
15 development and support of intercity bus transportation
16 facilities and services providing access and connections to
17 rural areas. If it is determined that all or a portion of the
18 set-aside monies is not required for intercity bus service,
19 those funds will be applied to the formula apportionment process
20 described in paragraph (2) of this subsection. Procedures for
21 determining if a certification of adequacy is warranted are as
22 follows.

23 (A) The department will review all data on
24 intercity bus service availability, including outstanding
25 requests from intercity operators and rural transit districts,
26 and levels of service.

1 (B) The department will consult with affected
2 intercity bus service providers and rural transit districts.

3 (C) The department will consult with other state
4 agencies that have jurisdiction with respect to intercity bus
5 regulation and seek their recommendations as to the adequacy of
6 current service.

7 (D) Based on the findings of subparagraphs (A),
8 (B), and (C) of this paragraph, the commission, the chief
9 executive officer of the state or the executive officer's
10 authorized designee may certify to the adequacy of intercity bus
11 service.

12 (2) Need and performance allocation. Excluding the
13 amounts allocated under paragraph (1) of this subsection, the
14 balance of the annual §5311 federal apportionment, plus the
15 remaining balance of previous §5311 federal apportionments, not
16 to exceed \$20,104,352, will be allocated to transit providers as
17 described in subparagraphs (A) and (B) of this paragraph.

18 (A) The need based allocation is 65 percent
19 giving consideration to population weighted at 75 percent and on
20 land area weighted at 25 percent by using the latest census data
21 available from, and as defined by, the U.S. Census Bureau for
22 each rural area relative to the sum of all rural areas.

23 (B) The performance based allocation is 35
24 percent. The subrecipient is eligible for funding under this
25 subparagraph if it is in good standing with the department and
26 has no deficiencies and no findings of noncompliance. The

1 commission will award the funding by giving equal consideration
2 to local funds per operating expense, ridership per vehicle
3 revenue mile, and vehicle revenue miles per operating expense.
4 These criteria may be calculated using the subrecipient's annual
5 audit for the previously completed fiscal year, data from other
6 sources, or from the department's records.

7 (C) Funding stability.

8 (i) Subject to the available apportionment,
9 no award to a transit district under this paragraph will be less
10 than 90 percent of the award to that transit district for the
11 previous fiscal year. All allocations under subparagraphs (A)
12 and (B) of this paragraph are subject to revision to comply with
13 this standard.

14 (ii) If a rural transit district experiences
15 a negative impact in its performance factor calculations due to
16 the acquisition or loss of service area, a natural disaster,
17 such as wind, fire, or flood, or unforeseen anomaly, the
18 department may mitigate that impact with an alternate
19 calculation addressing the specific situation. This calculation
20 may be repeated in subsequent years at the discretion of the
21 department.

22 (3) Discretionary allocation. If the amount of the
23 §5311 federal apportionments exceeds the maximum amount that may
24 be allocated under paragraph (2) of this subsection, a part of
25 that excess, not to exceed 10 percent of the amount computed by
26 subtracting, from the annual §5311 federal apportionment, the

1 funds for state administrative expenses under subsection (e)(1)
2 of this section and funds allocated for intercity bus
3 transportation under paragraph (1) of this subsection, will be
4 available to the commission for award at any time during the
5 fiscal year on a pro rata basis, competitively, [~~or~~] a
6 combination of both pro rata and competitive, or as a one-time
7 award to address changes in transit district boundaries.

8 Consideration for the award of these additional funds may
9 include, but is not limited to, coordination and technical
10 support activities, compensation for unforeseen funding
11 anomalies, assistance with eliminating waste and ensuring
12 efficiency, maximum coverage in the provision of public
13 transportation services, adjustment for reductions in purchasing
14 power, furtherance of the department's goals, and reductions in
15 air pollution. An award under this subparagraph will not be
16 considered for the purpose of applying the funding stability
17 allocation process under paragraph (2)(C) of this subsection in
18 succeeding fiscal years.

19 (4) Total vehicle [~~Vehicle revenue~~] mile allocation.
20 Any amount of the annual §5311 federal apportionment that is not
21 otherwise allocated under this subsection will be allocated to
22 rural areas, with the amount allocated to a rural area based on
23 the proportion of total vehicle [~~revenue~~] miles for that rural
24 area to the total of total vehicle [~~revenue~~] miles for all rural
25 areas.

26 (5) Adjustments to allocation.

1 (A) If part of a transit district's service area
2 is changed due to declaration by the United States Census Bureau
3 or the service area is otherwise altered, the department and
4 that subrecipient shall negotiate an appropriate adjustment in
5 the funding year or any subsequent year, as appropriate. This
6 negotiated adjustment is not subject to the minimum and maximum
7 standards set forth in paragraph (2)(C) of this subsection.

8 (B) If a previously designated urbanized area is
9 declared rural by the United States Census Bureau, a public
10 transportation subrecipient serving that area must apply for
11 funds in accordance with paragraph (6) of this subsection.

12 (6) Application and contract. Prior to receiving
13 funds a subrecipient must complete and comply with all
14 application requirements, rules, and regulations applicable to
15 the §5311 program. A completed application must be submitted,
16 in a form prescribed by the department, and document the need
17 and demand for general public passenger transportation services.
18 A contract shall be for no less than 12 months unless authorized
19 by the department.

20 (h) Program of projects. All projects for a fiscal year
21 will be identified in accordance with the allocation rules
22 included in subsection (g) of this section. After commission
23 approval of the allocation, these projects will be submitted to
24 the FTA as the annual program of projects for the fiscal year.

25 (i) Intercity bus. For funding from allocations made under
26 subsection (g)(1) of this section, an annual request for

1 proposals will be issued for projects complying with FTA
2 definitions of intercity bus transportation. To ensure a
3 balanced investment in access and connectivity to intercity bus
4 travel, the department may establish investment targets among
5 eligible applicant groups or project types prior to solicitation
6 of project proposals.

1 SUBCHAPTER D. PROGRAM ADMINISTRATION

2 §31.42. Standard Federal Requirements.

3 (a) Federal Transit Administration programs are subject
4 to 2 C.F.R. Part 200 and Part 1201, Uniform Administrative
5 Requirements, Cost Principles, and Audit Requirements for
6 Federal Awards [~~the Common Rule~~].

7 (b) The programs are also subject to the program
8 regulations promulgated by the Federal Transit Administration
9 and applicable program circulars.

10 (c) Changes to federal rules, regulations, and circulars
11 applicable to the programs will be implemented and incorporated
12 into the rules governing the specific program.

13

14 §31.43. Contracting Requirements.

15 (a) Purpose. This section describes contracting standards
16 and related requirements for recipients of state and federal
17 public transportation grant funds.

18 (b) Standards. The standards contained in 2 C.F.R. Part
19 200 and Part 1201, Uniform Administrative Requirements, Cost
20 Principles, and Audit Requirements for Federal Awards [~~the~~
21 ~~Common Rule~~] apply to public transportation contracting
22 activities. The department will monitor subrecipient compliance
23 with those standards.

24 (c) Subcontracts. Subrecipients shall furnish to the
25 department notice of the intent to award a purchase order or
26 contract to any individuals or organizations not a part of the

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Exhibit E

1 subrecipient's organization when the amount of the purchase
2 meets or exceeds the threshold level in the Government Code or
3 Local Government Code (or greater than \$25,000 for those
4 entities not covered by the Government Code or Local Government
5 Code) requiring formal competitive procurement. Purchases shall
6 not be split out to stay below the threshold amount. No
7 subcontract will relieve the subrecipient of the subrecipient's
8 legal responsibilities to the department.

9

10 §31.44. Procurement Requirements.

11 (a) Purpose. This section describes procurement standards
12 and related requirements for recipients of state and federal
13 public transportation grant funds.

14 (b) Standards. The standards contained in 2 C.F.R. Part
15 200 and Part 1201, Uniform Administrative Requirements, Cost
16 Principles, and Audit Requirements for Federal Awards [~~the~~
17 ~~Common Rule~~] apply to public transportation procurement
18 activities. All subrecipients shall maintain written
19 procurement policies. Those policies shall, at a minimum,
20 provide the following.

21 (1) Goods, services and equipment purchases.

22 (A) Goods, services, or equipment requiring
23 formal competitive procurement in accordance with the applicable
24 provisions in the Government Code or Local Government Code
25 (greater than \$25,000 for those entities not covered by the
26 Government Code or Local Government Code) shall require sealed

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1 bids or proposals. Bids for computer and radio systems shall
2 include all subcomponents necessary for the system to be
3 operated in the unit cost. Exceptions will be allowed for those
4 entities that are eligible to purchase items through the state
5 open contract procedures.

6 (B) Goods, services, or equipment not requiring
7 formal competitive procurement in accordance with the applicable
8 provisions in the Government Code or Local Government Code
9 (\$25,000 or less for those entities not covered by the
10 Government Code or Local Government Code) do require the
11 solicitation of quotes or offers from at least three sources.
12 Purchases of goods, services, or equipment with a total cost of
13 \$3,000 or less do not require quotes or offers from at least
14 three sources but are to be distributed equitably among
15 qualified suppliers. The subrecipient shall retain a written
16 record of these solicitations. Exceptions will be allowed for
17 those entities that are eligible to purchase items through the
18 state open contract procedures.

19 (2) Real property.

20 (A) Acquisition of real property shall be
21 accomplished in accordance with federal and state statutes,
22 regulations, and policies. In particular, projects that receive
23 federal funds shall comply with the uniform relocation and real
24 property acquisition standards established in 49 C.F.R. Part 25.

1 (B) Specific standards for construction and
2 rehabilitation projects will be negotiated as part of the
3 project agreement between the department and the subrecipient.

4 (3) Records retention. All procurement documents are
5 public information and shall be maintained by the subrecipient
6 for at least three years after grant closeout, or, in the case
7 of a capital project, the life of the asset plus three years.

8 (c) Department role.

9 (1) Oversight and approval. The subrecipient shall
10 furnish the department notice of the intent to award a purchase
11 order or contract to any individuals or organizations not a part
12 of the subrecipient's organization when the amount of the
13 purchase meets or exceeds the threshold level in the Government
14 Code or Local Government Code (or greater than \$25,000 for those
15 entities not covered by the Government Code or Local Government
16 Code) requiring formal competitive procurement. Purchases shall
17 not be split out to stay below the threshold amount. The
18 subrecipient shall at a minimum provide the following
19 documentation as requested by the department describing the
20 procurement history:

21 (A) the rationale the subrecipient used for the
22 method of procurement;

23 (B) the rationale the subrecipient used for the
24 selection of contract type;

25 (C) the reasons the bidder or proposer was
26 selected; and

1 (D) the methodology used to determine the
2 contract price, including a cost justification.

3 (2) Technical assistance. The department will provide
4 vehicle specifications, guidance on competitive procurement
5 procedures, and assistance in developing procurement
6 documentation to a subrecipient upon request. If subrecipients
7 choose to develop their own specifications, they assume full
8 responsibility for ensuring that the specifications do not
9 restrict competition.

10

11 §31.45. Accounting and Financial Recordkeeping Requirements.

12 (a) Purpose. This section describes accounting and
13 financial recordkeeping standards and related requirements for
14 recipients of state and federal public transportation grant
15 funds.

16 (b) Standards. The contractor's financial management
17 system shall meet or exceed the requirements of 2 C.F.R. Part
18 200 and Part 1201, Uniform Administrative Requirements, Cost
19 Principles, and Audit Requirements for Federal Awards
20 [~~the Common Rule~~]. Those requirements include:

21 (1) accurate, current, and complete disclosure of the
22 financial transactions of each grant program in accordance with
23 state and federal reporting requirements;

24 (2) records that identify adequately the source and
25 application of funds for grant-supported activities (records
26 shall contain information pertaining to grant awards and

NOTE: Additions underlined

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Exhibit E

1 authorization, obligations, commitments, assets, liabilities,
2 outlays, and income);

3 (3) effective control over and accountability for all
4 funds, property, and other assets (the recipient shall
5 adequately safeguard all assets and shall assure that they are
6 used solely for authorized purposes);

7 (4) comparison of actual with budgeted amounts for
8 each contract, and relation of financial information to
9 performance or productivity data, including the production of
10 unit cost information;

11 (5) procedures for determining the eligibility for
12 reimbursement and proper allocation of cost;

13 (6) accounting records that are supported by source
14 documentation; and

15 (7) a systematic method to assure timely and
16 appropriate resolution of audit findings and recommendations.

17

18 §31.47. Audit and Project Close-Out Standards.

19 (a) Purpose. This section describes audit and close-out
20 requirements for recipients of state and federal public
21 transportation grant funds.

22 (b) Audit standards. Contractor audit procedures shall
23 meet or exceed the single audit report requirement of 2 C.F.R.
24 Part 200, Uniform Administrative Requirements, Cost Principles,
25 and Audit Requirements for Federal Awards [~~outlined in Office of~~
26 ~~Management and Budget (OMB) publications as follows: state or~~

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1 ~~local governments follow OMB Circular A-128; and institutions of~~
2 ~~higher education and other nonprofit organizations follow OMB~~
3 ~~Circular A-133].~~

4 (1) Access. The United States Secretary of
5 Transportation, the Comptroller General of the United States,
6 the executive director of the department, and the State Auditor,
7 and any of their authorized representatives, shall have access
8 to the financial and other project records at all reasonable
9 times during the contract period and for the record retention
10 period for the purpose of making audits, examinations, excerpts
11 and transcripts.

12 (2) Documentation. The contractor shall maintain
13 financial records, supporting documents, statistical records,
14 and all other records of the public transportation grant.

15 (3) Records retention. Financial records, supporting
16 documents, statistical records, and all other records of the
17 public transportation grant shall be retained for a period of
18 three years after grant closeout, with the following
19 qualifications.

20 (A) Litigation. If any litigation, claim, or
21 audit is started before the expiration of the three-year period,
22 the records shall be retained until all litigations, claims, and
23 audit findings involving the records have been resolved.

24 (B) Nonexpendable property. Records for
25 nonexpendable property acquired with federal or state funds
26 shall be retained for three years after its final disposition.

1 (C) Transfer of records. The three-year
2 retention requirement is not applicable to the contractor when
3 the records are transferred to or maintained by the federal or
4 state grantor agency.

5 (D) Procurement records. The three-year
6 retention requirement is not applicable to capital projects
7 covered under §31.44(b)(3) of this chapter.

8 (4) Project close-outs. The contractor shall make
9 every reasonable effort to complete all project activities and
10 request appropriate reimbursements within the time period
11 specified in the project agreement. Project audits shall also
12 be completed within the specified time period and any findings
13 resolved with all practicable speed. Upon completion of these
14 activities, the contractor shall provide the department written
15 notification of project close-out and the release of any unspent
16 project balances.

17

18 §31.48. Project Oversight.

19 (a) Purpose. This section describes reporting requirements
20 for designated recipients and subrecipients of state or federal
21 public transportation grant funds and monitoring activities to
22 be performed by the department.

23 (b) Reporting requirements. The subrecipient shall submit
24 reports to the department in a format prescribed by the
25 department within deadlines established by the department.

1 (1) Incident reports. Subrecipients shall report all
2 incidents that meet criteria established by the department. The
3 subrecipient shall submit the report within five days of the
4 incident or discovery of the incident.

5 (2) Asset inventory. Each subrecipient shall provide
6 information on state and federally funded equipment as described
7 in §31.50 of this chapter (relating to Recordkeeping and
8 Inventory Requirements).

9 (3) Charter service. Section 5311 subrecipients shall
10 provide charter service only under the specific circumstances
11 established by the FTA. Operators shall advise the department
12 of any charter service provided and the exemption under which
13 charter service is provided.

14 (4) Disadvantaged Business Enterprises [~~and~~
15 ~~Historically Underutilized Businesses~~]. Subrecipients shall
16 submit reports in accordance with 49 C.F.R. Part 26,
17 Participation by Disadvantaged Business Enterprises in
18 Department of Transportation Financial Assistance Programs
19 [~~Chapter 9, Subchapter L of this title (relating to Historically~~
20 ~~Underutilized Business (HUB) Program)~~].

21 (5) Operations reports. All FTA recipients and
22 subrecipients shall submit quarterly and annual operations
23 reports.

24 (A) Pursuant to the requirements of 49 U.S.C.
25 §5311 and §5335, subrecipients of assistance under §5311 shall

1 submit to the department data required by the department for
2 reporting to the National Transit Database.

3 (B) Pursuant to the requirements of 49 U.S.C.
4 §5326, subrecipients of FTA assistance through the department
5 shall provide the data required by the department to report on
6 transit asset management.

7 (C) Pursuant to the requirements of
8 Transportation Code, §456.008(a) and (b), the department will
9 collect monthly data from transit operators in urbanized areas,
10 including transit authorities, and publish annually data on
11 industry utilized standards that best reflect ridership,
12 mileage, revenue by source and service effectiveness. These
13 standards include:

14 (i) Service efficiency--Operating expense
15 per vehicle revenue hour and operating expense per vehicle
16 revenue mile.

17 (ii) Cost effectiveness--Operating expense
18 per unlinked passenger trip.

19 (iii) Service effectiveness--Unlinked
20 passenger trips per vehicle revenue mile and unlinked passenger
21 trips per vehicle revenue hour.

22 (iv) Safety--Total incidents per 100,000
23 miles of service and average number of miles between revenue
24 vehicle mechanical system failures that prevent the vehicle from
25 completing a scheduled revenue trip.

1 (D) Pursuant to the requirements of
2 Transportation Code, §456.008(a) and (b), and 49 U.S.C. §5311,
3 the department will collect monthly from transit operators in
4 rural areas, and publish annually data on industry utilized
5 standards that best reflect ridership, mileage, revenue by
6 source and service effectiveness. These standards include:
7 (i) Service efficiency--Operating expense
8 per vehicle mile.
9 (ii) Cost effectiveness--Operating expense
10 per unlinked passenger trip.
11 (iii) Service effectiveness--Unlinked
12 passenger trips per vehicle mile.
13 (iv) Safety--Total incidents per 100,000
14 miles of service and average number of miles between revenue
15 vehicle mechanical system failures that prevent the vehicle from
16 completing a scheduled revenue trip.
17 (E) Pursuant to the requirements of
18 Transportation Code, §456.008(a) and (b), the department will
19 collect monthly from public transportation providers, as defined
20 in Transportation Code, §461.002, that receive funding under 49
21 U.S.C. §5310, or §5316 and §5317 (with regard to the grant of
22 funds appropriated under federal authorization bills prior to
23 MAP-21), and publish annually data on industry utilized
24 standards that best reflect ridership, mileage, revenue by
25 source and service effectiveness. These standards include:

1 (i) Service efficiency--Operating expense
2 per vehicle mile.

3 (ii) Cost effectiveness--Operating expense
4 per unlinked passenger trip.

5 (iii) Service effectiveness--Unlinked
6 passenger trips per vehicle mile.

7 (iv) Any other measure appropriate to the
8 type of project financed using funds from §5310, or §5316 and
9 §5317 with regard to the grant of funds appropriated under
10 federal authorization bills prior to MAP-21.

11 (6) Significant events. The recipient shall promptly
12 advise the department in writing of events that have a
13 significant effect on the delivery of public transportation
14 services, including:

15 (A) problems, delays, and adverse conditions that
16 will materially affect the ability to attain program objectives,
17 prevent the meeting of time schedules and goals, or preclude the
18 attainment of project work units by established time periods,
19 accompanied by a statement of the action taken or contemplated
20 and any departmental assistance needed to resolve the situation;
21 and

22 (B) favorable developments and events that will
23 enable meeting time schedules and goals sooner than anticipated
24 or producing more work units than originally projected.

25 (7) Miscellaneous reports. Entities receiving funds
26 from either the department or the FTA shall cooperate with the

1 department in providing other information as requested by state
2 and federal funding agencies.

3 (c) Department monitoring. The department will rely on
4 subrecipient reports as described in subsection (b) of this
5 section as the primary means of monitoring subrecipient
6 performance. In addition, department personnel and the
7 subrecipient at least quarterly will discuss problems
8 encountered by the subrecipient, the subrecipient's need for
9 technical assistance, and other topics related to the provision
10 of public transportation services. Routine monitoring activity
11 will occur in the following areas according to a schedule that
12 accommodates federal deadlines and department and operator
13 workloads. Most, but not all, monitoring activities will occur
14 on a quarterly basis.

15 (1) Civil rights. The department will monitor
16 subrecipients for compliance with Title VI Civil Rights
17 requirements.

18 (2) Drugs and alcohol.

19 (A) Each §5311 subrecipient and each of its
20 subcontractors with safety-sensitive employees shall have
21 policies and programs in place that comply with drug and alcohol
22 standards established by the FTA. The department will monitor
23 subrecipients for compliance with these regulations. In
24 addition, the FTA requires each subrecipient to file a calendar
25 year report (January 1 - December 31) with the department on
26 drug and alcohol testing and compliance activities.

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Exhibit E

1 (B) Each §5310 subrecipient, and each §5316 and
2 §5317 subrecipients with regard to the grant of funds
3 appropriated under federal authorization bills prior to MAP-21,
4 shall comply with Federal Motor Carrier Safety Administration
5 requirements for drug and alcohol compliance if it owns a
6 vehicle that requires a commercial driver's license to operate.
7 If the subrecipient also receives §5307 or §5311 funding, the
8 subrecipient shall include §§5310, 5316, and 5317 employees in
9 their FTA testing program.

10 (3) Fiscal responsibility. A department
11 employee quarterly will [~~make on-site quarterly visits to~~]
12 review agency financial records that support requests for
13 payment.

14 (4) Insurance. Subrecipients of state or federal
15 funds through the department shall insure all facilities,
16 equipment, and vehicles from loss. Checks for appropriate
17 insurance levels will occur at the time the local agency renews
18 its policies.

19 (5) Maintenance. Subrecipients are required to have
20 written maintenance plans, schedules, and logs to ensure the
21 proper care and longevity of vehicles and facilities in
22 accordance with §31.53(d) of this chapter (relating to
23 Maintenance Requirements). The plans, schedules, and logs are
24 subject to periodic on-site inspection by the department.

25 (6) Incidental vehicle use. A vehicle purchased with
26 federal or state funds may be used for incidental uses that do

1 not conflict with the primary purposes for which the vehicle was
2 purchased. An example of permissible incidental use is using
3 the vehicle for other public transportation activities when it
4 is not required for project purposes. The vehicle shall not be
5 altered in any way to accommodate an incidental use.

6 (7) Procurement. The department will work with
7 subrecipients to ensure that procurement activities meet
8 applicable state and federal requirements and that all required
9 documents are received and actions completed in a timely manner.
10 Check sheets will be maintained by the department to ensure all
11 benchmark activities are accomplished in the proper sequence.

12 (d) Noncompliance. A subrecipient that fails to comply
13 with federal or state law, standard or special grant or subgrant
14 conditions, or contractual agreements on which the grant or
15 subgrant award is predicated, is subject to actions under
16 Chapter 9, Subchapter H of this title (relating to Grant
17 Sanctions).

1 SUBCHAPTER E. PROPERTY MANAGEMENT STANDARDS

2 §31.50. Recordkeeping and Inventory Requirements.

3 (a) Purpose. To protect the public investment in real
4 property and equipment purchased in whole or in part with state
5 or federal public transportation funds administered by the
6 department, subrecipients shall comply with the standards
7 described in this section.

8 (b) Property records. The subrecipient shall maintain
9 records that include:

- 10 (1) a description of the property;
11 (2) a serial number or other identification number;
12 (3) the source of the property;
13 (4) who holds title;
14 (5) the acquisition date and cost of the property;
15 (6) the percentage of state and the percentage of
16 federal participation in the cost of the property;
17 (7) the location, use, and condition of the property;
18 and
19 (8) any ultimate disposition data, including the date
20 of disposal and sale price of the property.

21 (c) Inventory. The subrecipient shall cooperate with
22 department representatives in performing at least once every two
23 years a physical inventory of all real property and equipment,
24 as defined in §31.3 of this chapter, purchased in whole or in
25 part with state or federal capital funds administered by the
26 department. However, during the time period between these

1 physical inventories, the subrecipient shall promptly notify the
2 department in writing of all changes in the status of that real
3 property and equipment in order that department records may be
4 kept current. On or before November 1 of each year, the
5 subrecipient shall provide the department with an accurate
6 inventory, including the mileage, of all vehicles used in public
7 transportation service. Property shall remain on the
8 department's and subrecipient's inventories until such time as
9 the property is formally disposed of in accordance with the
10 requirements outlined in §31.57 of this subchapter.

11 Notwithstanding the foregoing, the subrecipient shall, where
12 applicable, be bound by, and shall comply with, the inventory
13 requirements specified in 2 C.F.R Part 200 and Part 1201,
14 Uniform Administrative Requirements, Cost Principles, and Audit
15 Requirements for Federal Awards [~~the common rule~~].

16 (d) Control system. The subrecipient must develop a
17 control system to ensure adequate safeguards to prevent loss,
18 damage, or theft of the property. The subrecipient shall
19 investigate any loss, damage, or theft.

20

21 §31.57. Disposition.

22 (a) Purpose. This section describes the standards that
23 apply to the disposition of equipment purchased in whole or in
24 part with state or federal public transportation funds.

25 (b) Like-kind exchanges. In the case of like-kind
26 exchanges, the percentage of the department's original

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Exhibit F

1 contractual interest shall be applied to the fair market value
2 of the equipment being sold at the time of the exchange. That
3 dollar value shall then be transferred as the department's
4 interest in the equipment being acquired and, as appropriate,
5 added to any additional funding provided by the department
6 towards the purchase of the new equipment.

7 (c) Federal standards. The federal standards contained
8 in 2 C.F.R Part 200 and Part 1201, Uniform Administrative
9 Requirements, Cost Principles, and Audit Requirements for
10 Federal Awards [~~the Common Rule~~] shall govern the disposition of
11 real property and equipment purchased under contracts in which
12 the department provides all or part of the local share
13 requirement of federally assisted capital improvements. In
14 cases in which 2 C.F.R. Part 200 and Part 1201, Uniform
15 Administrative Requirements, Cost Principles, and Audit
16 Requirements for Federal Awards [~~the Common Rule~~] does not
17 require reimbursement of the federal grantor agency, the
18 department will similarly release the state interest in the
19 capital improvement provided that the state's percentage share
20 of any proceeds derived by the subrecipient in the disposition
21 process shall be used by the subrecipient for public
22 transportation purposes similar to those for which the contract
23 award was originally made. If the subrecipient does not intend
24 to use the state's percentage share of the proceeds for public
25 transportation purposes, those monies shall be refunded as
26 described in subsection (d)(2)(B) of this section. In cases in

1 which 2 C.F.R. Part 200 and Part 1201, Uniform Administrative
2 Requirements, Cost Principles, and Audit Requirements for
3 Federal Awards [~~the Common Rule~~] requires reimbursement of the
4 federal grantor agency, the subrecipient shall provide the
5 department a percentage of the proceeds of the disposition equal
6 to the percentage of the state's original investment in the
7 property or equipment. Once disposition is authorized, the
8 subrecipient shall relinquish title to the property through
9 either sale, auction, or transfer to another recipient of FTA
10 funding. The department shall be notified of the disposition
11 and shall be provided information necessary to delete the
12 property from inventory records described in §31.50 of this
13 subchapter (relating to Recordkeeping and Inventory
14 Requirements).

15 (d) State standards. All real property and equipment
16 obtained through contracts in which the department's contractual
17 interest includes federal funds or state monies shall be
18 governed by the disposition standards contained in paragraphs
19 (1) and (2) of this subsection. The department shall be
20 notified of the subrecipient's intent to proceed with the
21 dispositions and provided information necessary to delete the
22 property from inventory records described in §31.50 of this
23 subchapter. Prior to disposition of property under the terms of
24 this subsection, the subrecipient shall obtain written
25 concurrence from the department and receive disposition
26 instructions. Once disposition is authorized, the subrecipient

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Exhibit F

1 shall relinquish title to the property through either sale,
2 auction, or transfer to another recipient of FTA or state
3 funding.

4 (1) Disposition criteria.

5 (A) Vehicles. Disposition may occur when the
6 current per-unit market value is less than \$5,000.

7 (B) Other equipment. Disposition may occur when
8 the current per-unit market value is less than \$5,000.

9 (C) Real property. When real property is no
10 longer needed for the originally authorized purpose, the
11 subrecipient shall request disposition instructions from the
12 department pursuant to this subsection.

13 (2) Distribution of disposition proceeds.

14 (A) Refund not required. In cases in which the
15 disposition criteria contained in paragraph (1)(A) and (B) of
16 this subsection have been met, the department will release its
17 contractual interest in the capital improvement. The department
18 will similarly release its contractual interest in cases in
19 which exceptions are granted for early disposition in accordance
20 with the provisions contained in subsection (e) of this section.
21 However, the department's release of its interest in a capital
22 improvement is contingent upon the subrecipient's assurance that
23 the department's contractually specified percentage share of any
24 proceeds derived by the subrecipient in the disposition process
25 will be used by the subrecipient for public transportation
26 purposes similar to those for which the contract award was

1 originally made. In the case of transfers to non-transit uses,
2 as allowed under 49 U.S.C. §5334(h), the department will release
3 only the federal portion of its contractual interest. The
4 department will consult with FTA as necessary to ensure
5 compliance with federal standards. The state's percentage share
6 shall be refunded as described in subparagraph (B) of this
7 paragraph.

8 (B) Refund required. In cases in which the
9 disposition criteria contained in paragraph (1)(A) and (B) of
10 this subsection have not been met, but the subrecipient has
11 received authorization from the department to proceed with the
12 disposition of equipment or property, the subrecipient shall
13 provide the department a percentage of the proceeds of the
14 disposition equal to the percentage of the department's original
15 contractual interest in the property or equipment. In cases of
16 real property, as described in paragraph (1)(C) of this
17 subsection, and when exceptions are not granted for early
18 disposition, as described in subsection (e) of this section, the
19 subrecipient shall similarly provide the department a percentage
20 of the proceeds of the disposition equal to the percentage of
21 the department's original contractual interest in the property
22 or equipment. In the case of transfers to non-transit uses, as
23 allowed under 49 U.S.C. §5334(h), the subrecipient shall provide
24 the department a percentage of the proceeds of the disposition
25 equal to the percentage of the original state percentage
26 interest in the property or equipment, excluding any federal

1 percentage interest that might have been included in the
2 contract of assistance. The department will consult with FTA as
3 necessary to ensure compliance with federal standards.

4 (C) Net proceeds from sale of capital assets. In
5 cases in which 2 C.F.R. Part 200 and Part 1201, Uniform
6 Administrative Requirements, Cost Principles, and Audit
7 Requirements for Federal Awards [~~the Common Rule~~] requires a
8 reimbursement, when the subrecipient receives proceeds from the
9 disposition of the capital property or equipment and those funds
10 will be used for subsequent federal public transportation
11 purposes, the subrecipient shall establish a record of liability
12 demonstrating that these funds are owed. The liability will be
13 removed when the subrecipient uses the proceeds for a subsequent
14 transit project.

15 (e) Exceptions. The department will consider exceptions to
16 this section on a case-by-case basis. The subrecipient must
17 furnish information requested by the department to determine if
18 an exception is warranted due to special circumstances. The
19 department will consult with FTA as necessary to ensure
20 compliance with federal standards.

AGENDA ITEM 6

Public Transportation Advisory Committee

Guiding Principles

Updated February 2012

1. Support Public Transportation

- Goal: Implement an efficient, effective, and sustainable public transportation system.
 - Objective: Strategically leverage all available resources to maximize service provided throughout the state.
 - *Task: Develop consistent and transparent methods to award funds (e.g. §5310 Program, §5311 Program, and Transportation Development Credits.)*
 - Objective: Increase financial stability of the state's transit providers
 - *Task: Identify, develop, and implement options to accommodate the lag in federal funding availability.*
 - *Task: Explore the creation of a reserve fund to provide gap funding, loans, and/or lines of credit.*
- Goal: Support financial sustainability of local, state, and federal investments in the maintenance and expansion of critical transportation assets.
 - Objective: Strategic and aggressive pursuit of competitive federal grant funding.
 - *Task: Develop 3-year list of capitol project needs statewide.*
 - *Task: Develop long-term strategic plans for investment.*
 - Objective: Improve individual and collective planning competencies and financial capacity within agencies.
 - *Task: Develop and implement leadership forum (particularly focused on best practices for financial stability).*
 - Objective: Encourage and support the recruitment, retention, and training of personnel.
 - *Task: Develop innovative financing training/knowledge sharing opportunities.*
- Goal: Conduct regular evaluations of funding initiatives and results to guide future direction and decision-making activities.
 - Objective: Achieve continuous service performance improvements.
 - *Task: Review past program funding, develop best practices and performances metrics for investments that maximize services.*
 - *Task: Review past investments and develop best practices for evaluation of new fund development and its impacts on maintenance and capital.*

2. Promote Coordinated Transportation

- Goal: Increase coordination to maximize the availability and use of transportation resources (funding, services, etc.)
 - Objective: Develop and implement an approach to the coordinated call for projects that exhibits a commitment to coordination.
 - *Task: Review previous §5310, §5311, JARC and New Freedom investments under the coordinated call and evaluate coordination best practices for coordination of funding, services, and/or community participation.*
 - *Task: Develop metrics and funding criteria that promote best practices in coordinated calls for projects.*
 - *Task: Develop advance trainings that build coordinated call applicants' understanding of the desired outcomes, requirements, and suggested approaches for a successful application.*
 - Objective: Develop metrics that will allow evaluation of the funding formula's consistency with the strategic values of regional coordination.
 - *Task: Define strategic values for coordination.*
 - *Task: Develop metrics for coordination.*
 - *Task: Test evaluation of the funding formulas based on coordination metrics.*
- Goal: Encourage and reward innovation.
 - Objective: Develop investment practices and grant management policies that support innovation and entrepreneurial approaches to regional coordination.
 - *Task: Research and review best practices at all levels for innovation and entrepreneurial approaches to regional coordination.*
 - *Task: Establish metrics and goals for TxDOT-implemented best practices.*
- Goal: Support initiatives to create sustainable communities.
 - Objective: Understand what local jurisdictions are doing to promote sustainability and the implications for public transportation in Texas.
 - *Task: Research what local jurisdictions are doing to create sustainable communities.*
 - *Task: Evaluate research to determine possible implications for PTN.*
- Goal: Conduct regular evaluations of funding initiatives to guide future direction and decision-making activities.
 - Objective: Achieve continuous service performance improvements.

- *Task: Review past programs and develop best practices for performance-based evaluation of coordination activities, projects, and programs.*
- *Task: Review past investments and develop best practices for evaluation of investments via the coordinated call for projects.*