



Public Transportation Division
State Management Plan (SMP)

FTA Section 5310, 5311, and 5339 Grant Programs

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Chapter 1 – Introduction

SMP Purpose

The Section 5310, 5311, and 5339 grant programs of the Federal Transit Administration (FTA) provide federal financial assistance to organizations that serve the citizens of the state of Texas. State administration of FTA programs is vested in the department, as designated by the governor. The Public Transportation Division (PTN) provides the everyday management of the grant programs.

The State Management Plan (SMP) is a document that describes TxDOT's policies and procedures for administering the state managed portions of FTA's Section 5310, 5311, and 5339 programs in accordance with Fixing America's Surface Transportation Act (FAST Act). The department is required to have an approved SMP on file with the FTA Region 6 office in Fort Worth, Texas and to update it regularly to incorporate changes in program management or new requirements.

The SMP is intended to facilitate both state management and FTA oversight by documenting PTN's procedures and policies for administering the programs in a single reference. The SMP is a comprehensive and coordinated document utilized by TxDOT Subrecipients and FTA. The SMP includes the department's goals, policies, procedures, and administrative requirements.

Texas Department of Transportation Mission Statements & Goals

Values, Vision, Mission, and Goals

Values:

People

People are the Department's most important customer, asset, and resource. The well-being, safety, and quality of life for Texans and the traveling public are of the utmost concern to the Department. We focus on relationship building, customer service, and partnerships.

Accountability

We accept responsibility for our actions and promote open communication and transparency at all times.

Trust

We strive to earn and maintain confidence through reliable and ethical decision-making.

Honesty

We conduct ourselves with the highest degree of integrity, respect, and truthfulness.

Vision:

A forward-thinking leader delivering mobility, enabling economic opportunity, and enhancing quality of life for all Texans.

Mission:

Connecting You With Texas

Goals and Objectives:

Deliver the Right Projects – Implement effective planning and forecasting processes that deliver the right projects on-time and on-budget.

- Use scenario-based forecasting, budgeting, and resource management practices to plan and program projects
- Align plans and programs with strategic goals
- Adhere to planned budgets and schedules
- Provide post-delivery project and program analysis

Focus on the Customer – People are at the center of everything we do.

- Be transparent, open, and forthright in agency communications
- Strengthen our key partnerships and relationships with a customer service focus
- Incorporate customer feedback and comments into agency practices, project development, and policies
- Emphasize customer service in all TxDOT operations

Foster Stewardship – Ensure efficient use of state resources.

- Use fiscal resources responsibly
- Protect our natural resources
- Operate efficiently and manage risk

Optimize System Performance – Develop and operate an integrated transportation system that provides reliable and accessible mobility and enables economic growth.

- Mitigate congestion
- Enhance connectivity and mobility
- Improve the reliability of our transportation system
- Facilitate the movement of freight and international trade
- Foster economic competitiveness through infrastructure investments

Preserve our Assets – Deliver preventive maintenance for TxDOT’s system and capital assets to protect our investments.

- Maintain and preserve system infrastructure to achieve a state of good repair and avoid asset deterioration
- Procure, secure, and maintain equipment, technology, and buildings to achieve a state of good repair and prolong life cycle and utilization

Promote Safety - Champion a culture of safety.

- Reduce crashes and fatalities by continuously improving guidelines and innovations along with increased targeted awareness and education
- Reduce employee incidents

Value our Employees – Respect and care for the well-being and development of our employees.

- Emphasize internal communications
- Support and facilitate the development of a successful and skilled workforce through recruitment, training and mentoring programs, succession planning, trust, and empowerment
- Encourage a healthy work environment through wellness programs and work-life balance

Public Transportation Division

Division Focus

Support a network of mobility options for people who use alternatives to driving alone.

Division Goals and Objectives

1. Distribute grant funds to support mobility and congestion-relief programs
 - Objective: Maximize the combination of formula and discretionary grant funds available to Texas.
 - Objective: Timely distribution of funds to eligible applicants based on objective criteria.
2. Ensure compliance with funding program requirements
 - Objective: Maintain a monitoring program that assures grant funds are utilized in accordance with federal and state requirements.
3. Promote training, coordinated planning, partnerships, and best practices

- Objective: Strategic development of the public transportation industry through training, conferences, technical assistance, leadership growth, and meetings.
4. Perform FTA State Safety Oversight Agency functions

Process for Establishing Long-term Goals

In accordance with Texas Transportation Code Section 201.601 and Title 49 U.S.C. Section 5304(f), the department develops a statewide transportation plan, which includes public transportation, that covers a period of 24 years. The current long-range plan, the *Texas Transportation Plan 2040* (TTP 2040), contains specific, long-term transportation goals for the state with formal participation by other state agencies, regional and local governments, local transportation entities, and the general public.

The planning process includes the development of separate but interrelated long-, mid-, and short-range planning and programming documents by the department, metropolitan planning organizations (MPOs), and rural planning organizations (RPOs). The long-range planning documents identify projects, strategies, and transportation needs. The mid-range programming documents contain a listing of prioritized projects expected to be ready for implementation in identified future years. The short-range programming documents include a listing of prioritized projects that are likely to be implemented. Underlying the planning and programming process is the need to develop reliable financial assumptions and forecasts for common use by all participants at all levels of the process.

Finally, there is the allocation of available state and federal resources by the department and MPOs to fund individual projects that will address the long-range needs and goals. Strategic performance measures are used to monitor and evaluate the effectiveness of the process and its participants and to identify areas that need improvement.

The TTP 2040:

- Covers a period of at least 20 years
- Includes planning for areas not included in the boundaries of a metropolitan planning organization
- Contains a priority-based listing of projects for long-range strategies that lead to the development of an integrated intermodal transportation system
- Becomes a component of the statewide long-range transportation plan

The long-term goals from the TTP 2040 form the basis for the department's long-term goals and objectives regarding the Section 5310 and Section 5311 programs for the Public Transportation Division, Rural Transit Districts, and the lead agencies responsible for regionally coordinated public transportation planning in Texas.

General Program Roles and Responsibilities

Federal Transit Administration

The FTA Headquarters Office in Washington D.C. provides overall policy and program guidance to states, apportions funds annually, develops and implements financial management procedures, initiates and manages program support activities, and conducts national program review and evaluation.

The FTA Region 6 Office in Fort Worth, Texas provides program administration for the state of Texas. Region 6 Office activities include, but are not limited to:

- Review and approve grant applications
- Obligate funds
- Manage eGrants
- Oversee the state of Texas implementation of the annual program, including revisions to the Program of Projects (POP)
- Receive certifications
- Review and approve Management Plans
- Provide technical assistance and guidance to the state as needed
- Perform management reviews every three years and special reviews at FTA's discretion

Authority

Most federal transit laws are codified at Title 49 U.S.C. Chapter 53. Authorizing legislation is substantive legislation enacted by Congress that establishes or continues the legal operation of a federal program or agency. FTA's most recent authorizing legislation is the Fixing America's Surface Transportation Act (FAST Act) signed into law on December 4, 2015.

Texas Department of Transportation

The governor has designated the Texas Transportation Commission (commission) to administer public transportation programs in Texas. The commission is a five-member board that oversees TxDOT.

All Subrecipient awards are contingent on approval by the commission. Commission agendas and minute orders can be found on the [TxDOT website](#).

Public Transportation Advisory Committee (PTAC)

PTAC consists of nine (9) members, appointed by the governor, lieutenant governor, and speaker of the House of Representatives. The committee's primary responsibilities include:

1. Advise the commission on the needs of the state's public transportation providers
2. Advise the commission on the allocation of public transportation funds
3. Comment on rules involving public transportation

Public Transportation Division

PTN headquarters staff are located at the Riverside Campus in Austin and Public Transportation Coordinators (PTCs) located in most district offices. PTN responsibilities include, but are not limited to:

1. Develop and implementing public transportation programs throughout the rural and small urbanized areas of the state
2. Ensure adherence to federal program guidelines by all Subrecipients through periodic monitoring and oversight
3. Notify eligible and/or potential local entities of the availability of programs,
4. Develop project selection criteria
5. Solicit applications
6. Ensure fair and equitable distribution of program funds
7. Ensure the maximum feasible coordination of transit resources at the state and local level
8. Ensure a planning process whereby private transit and paratransit operators are provided an opportunity to participate to the maximum extent feasible
9. Manage and process all grant agreements, amendments, and budget revisions
10. Ensure projects are placed in the district and MPO Transportation Improvement Plans (TIP)
11. Serve as the direct contact point for applicants/Subrecipients/the public
12. Provide technical assistance to Subrecipients

One of PTN's primary public transportation responsibilities is to provide technical assistance to transit agencies. Examples of technical assistance include, but are not limited to the following:

1. Internet websites
2. Conferences
3. Semi-annual meetings
4. Workshops
5. Manuals

6. Video conferencing and webinars
7. Training (Specialized)
8. Specific system and topic assistance through the Texas A&M Transportation Institute

Authority

Title 43, Texas Administrative Code (TAC), Chapter 31 sets out policies and procedures to be followed by the Texas Department of Transportation and grant Subrecipients in accomplishing the duties prescribed by Transportation Code, Chapters 455, 456, 458, and 461, concerning public transportation. 43 TAC 31 also describes the administration of federal public transportation grant monies by the department pursuant to 49 USC Section 5301 et seq.

TxDOT Divisions' Roles in Public Transportation

Transportation Planning and Programming Division

The Transportation Planning and Programming Division (TPP) is responsible for the department's long-, mid-, and short-range multimodal transportation plans. TTP coordinates with and includes planners from PTN for statewide plan development involving rural public transportation goals, objectives, strategies, and projects.

Civil Rights Division

The Civil Rights Division (CIV) is responsible for TxDOT's Title VI, Equal Employment Opportunity/affirmative action, Americans with Disabilities Act, Disadvantaged Business Enterprise, and Small Business Enterprise compliance. CIV staff coordinate with PTN to ensure that FTA-specific civil rights policies and procedures are reflected in the department's civil rights programs. PTN participates on the CIV Title VI Interdisciplinary Team, DBE Coordinators Team, and ADA Liaison Team to coordinate in civil rights procedures and ensure compliance.

Compliance Division

The Compliance Division assists PTN with annual audit compliance, including receipt and review of annual Subrecipient audits, issuance of management decisions to PTN Subrecipients, and resolution of audit findings.

Financial Management Division

The Financial Management Division is responsible for maintaining the system that tracks PTN's and Subrecipients' financial information. The Financial Management Division also provides PTN with assistance in preparing requests for reimbursements submitted to FTA. Additional support functions include providing financial reports, processing financial transactions, and assisting PTN during reviews and audits.

Contract Services Division

The Contract Services Division provides contract development, contract management, and procurement assistance to PTN on an as needed basis.

General Counsel Division

The General Counsel Division reviews PTN agreements and contracts and provides legal advice to PTN on an as needed basis.

Other Divisions

Environmental Affairs, Right of Way, Design, and Construction Divisions assist PTN on an as-needed basis for the development of transit facility projects.

Other State Agencies

Texas A&M Transportation Institute

The Texas A&M Transportation Institute (TTI) has a contract with TxDOT for developing the long-range plan (TTP 2040). This includes assistance in forecasting public transportation needs in rural and urban areas. TTI also assists PTN in collecting and reporting transit operating data to the National Transit Database (NTD).

State Auditor's Office

The State Auditor's Office (SAO) reviews TxDOT's management of transportation programs as part of the department-wide annual audit. The SAO may also conduct special reviews or audits of TxDOT and recipients of TxDOT assistance.

Texas Legislature

The Texas Legislature meets biennially in odd-numbered years to develop the budget for all state agencies, including TxDOT. The budget includes a strategy that provides funding for support of public transportation, which takes into account federal funds apportioned to Texas, for which TxDOT is the designated recipient.

Texas Comptroller of Public Accounts

The Texas Comptroller of Public Accounts, with TxDOT approval, initiates and pays PTN expenditures and reimbursements made to PTN grantees.

Transit Agencies

Transit agencies are the department's partners in providing public transportation to the citizens of Texas. To carry out their service delivery responsibilities, transit agencies:

1. Provide transportation services
2. Work with human services agencies, workforce centers, education facilities, employers, ridership, and the public to identify and coordinate transportation needs
3. Comply with all terms in the grant agreements, applicable state and federal regulations, and reporting requirements

Metropolitan Planning Organizations

An MPO is a transportation policy-making organization made up of representatives from local government and transportation authorities. MPOs ensure that existing and future expenditures for transportation projects and programs are based on a comprehensive, cooperative, and continuing planning process. The role of the MPO includes:

- Establish a local forum for transportation decision making
- Evaluate transportation alternatives
- Develop and updating a long-range transportation plan
- Develop a TIP
- Public involvement

TxDOT works in cooperation with these local groups in developing their TIPs. In accordance with federal regulations, the MPOs establish their project priorities and TxDOT includes those in the statewide program.

Regional Service Planning (RSP)

Chapter 461 of the Texas Transportation Code focuses on maximizing the benefits of the state's investment in public transportation through the coordination of services. Accordingly, the Texas Transportation Commission looks to a lead agency in each of the state's 24 planning regions to head up local activities. These activities include developing a stakeholder-led plan to enhance service delivery, improving customer satisfaction, and increasing the efficiency and effectiveness of transportation services. Regional plans contain the following essential elements or characteristics:

1. Local development
2. Comprehensiveness

3. Inclusion of public, private, and non-profit human services agencies, workforce and public transportation agencies, advocacy groups, passengers, and the general public
4. A mechanism to share the coordinated plan document as needed to support cross-jurisdictional project selection processes

The plans and associated materials can be obtained at the [Regionally Coordinated Transportation Planning](#) website.

Summary of State Management Plan Development

PTN's State Management Plan is updated at least annually to incorporate changes in policies, procedures, and regulations. PTN will maintain a document of proposed or potential changes to the SMP and will make updates, as required by FTA guidance, each year. Significant changes will undergo a public review and comment period and will likely result in an update by August of each year. The intent is to have an updated SMP ready at the beginning of the state Fiscal Year (September 1st).

Proposed changes or edits may be submitted at any time to:

Texas Department of Transportation
Public Transportation Division
125 E. 11th Street
Austin, Texas 78701-2483
Email: Rebecca.Ligon@txdot.gov

Chapter 2 – Section 5310 Program: Enhanced Mobility of Seniors and Individuals with Disabilities

Program Purpose and Authority

Title 49 U.S.C. Section 5310) authorizes the Secretary of the U.S. Department of Transportation (U.S. DOT) to make grants for the provision of transportation services meeting the special needs of seniors and individuals with disabilities.

FTA guidance for the Section 5310 program is prescribed by Circular 9070.1G, Enhanced Mobility of Seniors and Individuals with Disabilities Program Guidance and Application Instructions.

TxDOT has been designated by the governor to administer the Section 5310 program. PTN, through its local PTCs, carries out a local project selection process. PTCs also oversee the daily administration of Section 5310 project grant agreements.

The Section 5310 Grant Program rules, located at 43 TAC 31.31, prescribe many of the policies and procedures to be followed by TxDOT. The policies and procedures in this SMP are the same as those in the TAC and are augmented by additional federally required policies and procedures in the most current FTA regulations and circulars.

Program Goals and Objectives

FTA's goal of the Section 5310 program is to improve mobility for seniors and individuals with disabilities throughout the country, by removing barriers to transportation services and expanding the transportation mobility options available.

The department's goal in administering the Section 5310 program is to promote the availability of cost-effective, efficient, and coordinated passenger transportation services planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable, using the most efficient combination of financial and other resources. To achieve this goal, the objectives of the department are to:

1. Promote the development and maintenance of a network of transportation services for seniors and individuals with disabilities throughout the state, in partnership with local stakeholders and with priority on sustaining existing service coverage
2. Fully integrate the Section 5310 program with other federal, state, and local resources and programs that are designed to serve similar populations
3. Promote public transportation projects that exceed the requirements of the Americans with Disabilities Act (ADA)

4. Promote public transportation projects that decrease the reliance of individuals with disabilities on ADA complementary paratransit services
5. Promote and encourage local participation, especially by seniors and individuals with disabilities or their advocates, in decision-making
6. Improve the efficiency, effectiveness, and safety of Section 5310 transit systems through the provision of technical assistance
7. Include private sector operators in the overall plan to provide transportation for seniors and individuals with disabilities

Program Roles and Responsibilities

Public Transportation Division

PTN's general program roles and responsibilities located are documented in Chapter 1, Introduction. 43 TAC 31.31 requires the department, as the administrating agency, to:

1. Develop application materials and disseminate information to prospective applicants and other interested parties
2. Develop evaluation criteria and select projects for funding, with input from local entities and local individuals
3. Prepare the state's annual program of projects and funding application and submit that material to the FTA for approval
4. Negotiate and execute contracts with local Section 5310 recipients
5. Prepare requests for federal reimbursement and process payment requests from Section 5310 recipients
6. Monitor and evaluate the progress of ongoing transportation operations, including compliance with federal regulations and coordination of services,
7. Provide technical assistance to Section 5310 recipients to aid them in improving and coordinating transit services

Subrecipients

The general program roles and responsibilities (Chapter 1, Introduction), 43 TAC 31.31 recognize Section 5310 Subrecipients as partners who shall retain control of daily operations. The Obligation Certificate, signed by the Subrecipient, acknowledging organizational responsibilities to the program is included with the eGrants system application process.

Private for-profit transportation business participation is permitted, subject to the conditions prescribed in 43 TAC 31.31. Taxi companies that provide only exclusive-ride service are not eligible Subrecipients; however, they may participate in the Section 5310 program as contractors. Exclusive-ride taxi companies may receive Section 5310 funds to purchase accessible taxis under contract with an eligible Subrecipient.

Coordination

State Agency Level Coordination

PTN meets with several human services-related state agencies as stakeholders to develop processes for more inclusive coordinated planning and project development.

State agencies with which the Department may coordinate include:

1. [Texas Health and Human Services Commission](#), consisting of:
 - a. Centers for Independent Living
 - b. Aging and Disability Resource Centers
 - c. Department of State Health Services
2. [Texas Workforce Commission](#)
3. [Texas Veterans Commission](#)
4. [Texas Education Agency](#)

Project-level Coordination

PTN, to conform with Title 49 U.S.C. 5310, requires that projects selected for funding under this program are included in a locally developed, coordinated public transit-human service transportation plan and the plan was developed and approved through a process that included participation by seniors; individuals with disabilities; representatives of public, private, nonprofit transportation and human service providers; and other members of the public. A portion of the state's Section 5304 funds are allocated each fiscal year to a discretionary program administered for regional coordinated public transportation planning activities of the state's twenty-four regional planning districts. These coordinated planning activities may result in transportation services and projects funded by Section 5310 grants.

PTN encourages coordination at the Section 5310 project level by establishing, after consultation with local stakeholders, processes for local planning and project development, and public outreach. Per 43 TAC 31.31, to streamline decision-making processes and maximize coordination opportunities, the department may choose to combine contiguous department district boundaries for stakeholder engagement, project selection, and public outreach. The stakeholder groups should include representatives of the following groups:

1. Transportation partners
2. Passengers and advocates
3. Human services and workforce agencies

4. Others, such as emergency management agencies, economic development organizations, and faith- and community-based organizations

PTN also encourages transit districts to serve on mobility management consortiums or other local and regional human service transportation planning efforts. Transit districts are well positioned to partner with human services agencies, workforce agencies, and others in developing and delivering more efficient and varied service options for seniors and individuals with disabilities.

Eligible Subrecipients

Title 49 U.S.C. 5310 and FTA Circular 9070.1G define eligible Section 5310 Subrecipients. Subrecipients are divided into two categories, those eligible for traditional Section 5310 capital funds and those who are only eligible for other funds.

Subrecipients eligible for traditional Section 5310 funds are:

1. A private nonprofit organization or
2. A state or local governmental authority that:
 - a. Is approved by a state to coordinate services for seniors and individuals with disabilities or
 - b. Certifies that there are no nonprofit organizations readily available in the area to provide the service

Eligible Subrecipients for other eligible Section 5310 activities include a state or local governmental authority, a private nonprofit organization, or an operator of public transportation that receives a Section 5310 grant indirectly through a recipient. Private taxi companies that provide shared-ride taxi service to the public or to special categories of users, such as seniors or individuals with disabilities, on a regular basis are also eligible recipients.

Partnerships between 5307/5311 agencies and workforce or health and human services agencies, such as centers for independent living, allow for maximum utilization of the 5310 funds. Transit providers have a successful history in demonstrating the financial, managerial, and technical capacity to provide transit service and manage capital assets that is often beyond the capacity of health and human services agencies due to their different focus. Partnerships that build upon the strengths of the two organizations are encouraged and when undertaken should be clearly spelled out in their respective applications for funding.

Eligible Activities

Administrative Expenses

Subrecipient administrative expenses are not eligible for reimbursement.

Capital Expenses

The following categories of capital expenses are eligible for federal reimbursement under the Section 5310 program. With PTN concurrence, eligible items include:

1. Buses
2. Vans or other paratransit vehicles
3. Acquisition of transportation services under a contract, lease, or other arrangement
4. Mobility management
5. Curb cuts, sidewalks, pedestrian signals, or other accessible features
6. Radios and communication equipment
7. Vehicle shelters
8. Wheelchair lifts and restraints
9. Vehicle rehabilitation, remanufacture, or overhaul
10. Microcomputer hardware and software
11. Initial vehicle component installation costs
12. Vehicle procurement, testing, inspection, and acceptance costs
13. Vehicle extended warranties that do not exceed industry standards
14. Lease of equipment, provided that the local recipient determines a lease is more cost effective than the purchase of equipment after considering management efficiency, availability of equipment, staffing capabilities, and guidelines on capital leases as contained in 49 CFR Part 639
15. Transit-related intelligent transportation systems (ITS)
16. Introduction of new technology, through innovative and improved products, into mass transportation
17. Acquisition of preventive maintenance services and vehicle parts associated with preventive maintenance services of vehicles used for Section 5310 services that were purchased with Section 5310 funds or those purchased with funding from the former New Freedom Section 5316 program

Operating Expenses

Operating expenses are costs that are directly tied to transit operations, such as costs for fuel; oil; replacement parts; and driver, mechanic, and dispatcher salaries.

Indirect Costs

Subrecipient indirect costs are not eligible for reimbursement with 5310 assistance received from PTN.

Local Share and Local Funding Requirements

Capital Expenses

Federal funds may be used to defray up to 80% of the cost of eligible capital expenditures.

The federal share may increase to up to 85% of the net project cost for a project that involves acquiring vehicles for the purpose of complying with the Americans with Disabilities Act or the Clean Air Act.

The federal share may increase to up to 90% for incremental costs related to compliance with the Clean Air Act in areas of air quality non-attainment or with the Americans with Disabilities Act of 1990, with concurrence from PTN.

Operating Expenses

Operating expenses are costs that are directly tied to transit operations, such as costs for fuel; oil; replacement parts; and driver, mechanic, and dispatcher salaries.

Operating expenses may be reimbursed at 50% of net operating expense. Net operating expenses are those expenses that remain after fare box revenues are subtracted from eligible operating expenses.

Eligible Sources of Local Share

Eligible sources to satisfy local share requirements may be derived from the following:

1. Undistributed cash surplus, or a replacement or depreciation cash fund or reserve
2. Service agreement with a state or local social service or workforce agency, or a private social service organization
3. Amounts appropriated or otherwise made available to a U.S. department or agency that are eligible to be expended for transportation
4. Funds to carry out the Federal Lands Highways program established by 23 U.S.C. §204
5. In-kind contributions, volunteer services, and donations attributable to the project if the value is documented and previously approved by the department or
6. Transportation Development Credits with prior department approval

Funds from any other U.S. DOT program are not eligible for use as local matching funds.

For more information on local match resources, including programs that may provide matching funds for Section 5310, refer to “A Study of Sources Used for Local Revenue for Transit,” available on the [TxDOT website](#).

Project Selection Criteria and Method of Distributing Funds

Project Selection Criteria

To encourage local participation in the development of project priorities, the department will consult with stakeholder organizations, including local governments, MPOs within small urban areas, non-profit organizations, and for-profit entities. Department personnel will ensure public outreach is conducted to create awareness of the grant program and receive stakeholder comments and recommendations. In an effort to streamline decision-making processes and maximize coordination opportunities, the department may choose to combine contiguous department district boundaries for stakeholder engagement, project selection, and public outreach. The stakeholder groups should include representatives of the following groups, further defined in FTA Circular 9070.1G, or its latest version:

1. Transportation partners
2. Passengers and advocates
3. Human services and workforce agencies
4. Others, such as emergency management agencies, economic development organizations, and faith- and community-based organizations

The department will consider the program goals and objectives and consider projects that:

1. Leverage existing resources and promote innovation
2. Are the only public transportation option for the proposed service area
3. Are sustainable over time
4. Demonstrate efficient use of resources
5. Involve partnerships that include organizations and for-profit transportation providers
6. Provide service continuity

Not less than 55% shall be available for traditional Section 5310 projects—those public transportation capital projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, unavailable, or inappropriate.

Not more than 45% of the funds allocated by district boundaries or combination of district boundaries may be used for other Section 5310 projects, which include operating expenses. This cap on operating expenses applies to both urbanized areas and rural areas.

The following requirements apply to all projects recommended for funding:

1. There must be a demonstrated need for any capital purchases. Examples of items that may be used to demonstrate need include a needs assessment that documents the demand for new services, a vehicle inventory that establishes the need for replacement of older equipment, dispatcher logs that document requests for service that cannot be met with existing equipment, and purchase of service contracts that substantiate the need for additional vehicles.
2. Organizations must certify that proposed service does not duplicate existing transit service.
3. The proposed applicant must be able to demonstrate its financial and managerial capability to carry out the project. Examples of items that may be used to demonstrate the capability include audited financial statements and review letters from grantor agencies.
4. Consideration should be given to the applicant's past efforts to coordinate services and related activities with other local entities. Examples showing those efforts include contracts that outline purchase of service agreements, shared maintenance or dispatching functions, and joint training initiatives.
5. There must be evidence of local support for the proposal from representatives of the senior and individuals with disabilities communities. Examples of that evidence include resolutions by local governing bodies and endorsement letters from other organizations or individuals.
6. The project must be included in the coordinated public transit-human service transportation plan.

Method of Distributing Funds

After the state administrative expenses are set aside, funds will be allocated on a formula basis as follows, in accordance with 43 TAC 31.31:

- "...(g) Funding distribution. After the state administrative expenses described in subsection (e)(1) of this section are set aside, funds will be allocated on a formula basis as provided by this subsection.
- (1) For urbanized areas with a population less than 200,000, 25% of the available funds will be allocated equally, using department district boundaries of the districts that include such an area. To allocate the remaining 75%the department will:
- (A) calculate the population of seniors and individuals with disabilities in each of those urbanized areas using the latest census figures available from the United States Census Bureau; and
- (B) divide each urbanized area's population of seniors and individuals with disabilities, as determined under subparagraph (A) of this paragraph, by the state's total population for

urbanized areas with less than 200,000 population to determine that urbanized area's formula allocation.

- (2) For rural areas, 25% of the available funds will be allocated equally, using department district boundaries of the districts that include such an area. To allocate the remaining 75%, the department will:
 - (A) calculate the population of seniors and individuals with disabilities in each department district using the latest census figures for counties available from the United States Census Bureau; and
 - (B) divide each department district's subtotal of the population of seniors and individuals with disabilities, as determined under subparagraph (A) of this paragraph, by the state total of that population in rural areas to determine the district's formula allocation.
- (3) For urbanized areas with 200,000 population or more for which the department is the designated recipient, funds will be allocated to the respective urbanized area based on the federal apportionment as published in the Federal Register.
- (4) Residual funds.
 - (A) Urbanized areas with populations of less than 200,000 and rural areas. On completion of the project selection procedures described in subsection (i) of this section, if any portion of the allocation described in paragraph (1) or (2) of this subsection is not needed, the commission or the executive director may distribute the balances, as appropriate, to satisfy unmet needs in other areas of the state. This action may require the department to transfer funds, at the state level, between urbanized and rural areas to fully obligate the state's apportionment.
 - (B) Urbanized areas with populations of 200,000 or more. On completion of the project selection procedures described in subsection (i) of this section, any unallocated funds for urbanized areas with populations of 200,000 or more will remain in that urbanized area until allocated at a future date.”

PTN's procedures for assuring equity of distribution of benefits among groups within the state, as required by Title VI of the Civil Rights Act, are included in the current FTA-approved PTN Title VI Program. The PTN Title VI Program is available on the [TxDOT website](#).

Annual Program of Projects Development and Approval Process

Application Process

An applicant must submit an application for Section 5310 grant funds within the eGrants system by the deadline specified by the department. Applications are submitted every two years for projects covering up to two years. The application must document the need and demand for passenger transportation services for seniors and individuals with disabilities and also must document inclusion of the project in the coordinated public transit-human service transportation plan.

Timetable for Soliciting, Reviewing and Approving Local Projects

The general schedule for the program call posts applications every two years in the fall, proposals are due in the winter, and awards are made in late spring to early summer of the following year. After the application submission deadline, PTN will review all funding requests for completeness and compliance with all statutory and program administrative requirements. A scoring committee will evaluate applications using a methodology developed in accordance with program requirements. The final results of the scoring process will be submitted to PTN Headquarters, who will review the results with the scoring committee and determine recommended awards. While the entire project proposal is being evaluated for funding, only one year of funding is awarded at a time. Following commission award in late spring or early summer, the department will negotiate a project grant agreement with the selected local entities and organizations to implement the projects selected for funding. In the year between the program calls, applicants will be allowed to submit an updated budget for the second year of the project. PTN reviews the updated budget along with the first year's performance to determine the second year's award amount.

State Administration and Technical Assistance

The department may use up to 10% of the annual federal program apportionment to defray its expenses incurred for the administration of the Section 5310 program. State administrative expenses do not require a non-federal match. PTN uses the state administrative funds for staff in the Austin headquarters and for PTCs in the TxDOT Districts to perform program tasks, including technical assistance and planning, identified in PTN's roles and responsibilities identified in this chapter and prescribed in 43 TAC 31.31. Subrecipient requests for technical assistance should be directed to the PTC.

Private Sector Participation

As prescribed under eligible Subrecipients, for an area not covered by a transit provider or for which the existing provider is not willing or able to provide the transportation, a private organization may be selected as an alternate recipient to receive Section 5310 funds. Private taxi companies that provide shared-ride taxi service to the public or to special categories of users (such as seniors or individuals with disabilities) on a regular basis are also eligible alternate recipients. The department's regionally coordinated transportation planning program, which often results in projects funded by Section 5310, requires consultation and active participation by private providers of public transportation as stakeholders. Taxi companies that provide only exclusive-ride service are not eligible Subrecipients; however, they may participate in the Section 5310 program as contractors. Exclusive-ride taxi companies may receive Section 5310 funds to purchase accessible taxis under contract with an eligible Subrecipient. Services contracted from either shared ride or exclusive ride taxi companies should be obtained by Subrecipients via the applicable procurement rules.

Program Measures

The department will collect and report overall program measures for the Section 5310 program from Subrecipients. The following indicators are targeted to capture overarching program information as part of the annual report that each Subrecipient submits to TxDOT. Until new measures are established by the FTA and/or the department, the department will continue to use the following indicators.

Subrecipients shall provide both quantitative and qualitative information available on each of the following measures with milestone progress reports (MPRs) and annual reports:

1. **Gaps in Service Filled:** Provision of transportation options that would not otherwise be available for seniors and individuals with disabilities measures in numbers of seniors and individuals with disabilities afforded mobility they would not have without program support.
2. **Ridership:** Actual or estimated number of rides (as measured by one-way trips) provided annually for seniors or individuals with disabilities on Section 5310 supported vehicles and services.
3. **Physical Improvements:** Additions or changes to environmental infrastructure (e.g. transportation facilities, sidewalks, etc.), technology, and vehicles that impact availability of transportation services as a result of project implemented in the current reporting year.

Administrative Requirements for Section 5310 Program

Refer to Chapter 5, Administrative Requirements for All Programs, in this SMP for basic grant administrative requirements in the Section 5310 Program.

Chapter 3 – Section 5311 Program: Public Transportation in Rural Areas

Program Purpose and Authority

The FTA Formula Grants for Rural Areas Program, codified at 49 U.S.C. 5311 (Section 5311), is authorized under the provisions set forth in the FAST Act. Under this program, funding assistance is provided for public transportation in rural areas. The commission awards federal funds under the FTA Section 5311 program to Texas rural transit districts and ensures grant funds are distributed fairly and equitably within the state. TxDOT has been designated by the governor to administer the Section 5311 program. PTN, through its local PTCs, administers the local project selection process. PTCs also oversee the daily administration of Section 5311 project grant agreements.

The Section 5311 program provides financial assistance for the support of public transportation services, in rural areas with less than 50,000 in population according to the U.S. Census of 2010. Section 5311 funds can be used for the cost of transit planning activities, transit operations and purchase of capital equipment or facilities to aid in provision of transit services in rural areas, as well as provide funds for state-level administration. Federal regulations require that a specified percentage of these funds be reserved each year to support an Intercity Bus Program (ICB), unless the governor of Texas certifies that intercity bus needs are being met.

The policies and procedures in this SMP are the same as those in the 43 TAC 31.36 and are augmented by additional federally required policies and procedures in the most current FTA regulations and circulars.

Section 5311 program consists of four targeted sub-programs specified by FTA regulations and/or the Texas Administrative Code:

1. Section 5311 Rural Formula Program
2. Section 5311 Rural Discretionary Program
3. Section 5311(f) ICB
4. Section 5311(b)(3) Rural Technical Assistance Program (RTAP)

Program Goals

FTA Goals

The FTA goal of the Section 5311 program is to award funds to eligible recipients located in rural areas for planning, capital projects, operating assistance, job access reverse commute projects, and the acquisition of public transportation services. The Section 5311 program supports both the maintenance of existing public transportation services, and the expansion of those services through the following program goals:

1. Enhancing access in rural areas to health care, shopping, education, employment, public services, and recreation
2. Assisting in the maintenance, development, improvement, and use of public transportation systems in rural areas
3. Encouraging and facilitating the most efficient use of all transportation funds used to provide passenger transportation in rural areas through the coordination of programs and services
4. Providing financial assistance to help carry out national goals related to mobility for all, including seniors, individuals with disabilities, and low-income individuals
5. Increasing availability of transportation options through investments in intercity bus services
6. Assisting in the development and support of intercity bus transportation,
7. Encouraging mobility management, employment-related transportation alternatives, joint development practices, and transit-oriented development
8. Providing for the participation of private transportation providers in rural public transportation

TxDOT Goals

TxDOT's goal in administering the Section 5311 program is to promote the availability of cost-effective, efficient, and coordinated passenger transportation services to the general public in rural areas using the most efficient combination of financial and other resources. To achieve this goal, the objectives of the department are to:

1. Promoting the development and maintenance of a network of general public transportation services, including intercity services, in rural areas throughout the state, in partnership with local officials
2. Fully integrating the §5311 program with other federal, state, and local resources that are designed to serve rural populations
3. Improving the efficiency, effectiveness, and safety of §5311 systems through the provision of technical assistance

4. Including private sector operators in the overall plan to provide public transportation services minimize negative impacts from changes in public transportation district boundaries.

Roles and Responsibilities

TxDOT - Public Transportation Division

In addition to the general program roles and responsibilities located in Chapter 1, Introduction, 43 TAC 31.36 requires the department, as the administrating agency, to:

1. Develop application materials and disseminate information to prospective applicants and other interested parties
2. Allocate the available program funds in a fair and equitable manner (the department will not provide Section 5311 funds to more than one transit system in a geographical area),
3. Develop evaluation criteria and select projects for funding
4. Prepare the state's annual program of projects and funding application and submit that material to the FTA for approval
5. Negotiate and execute contracts with local Section 5311 Subrecipients
6. Prepare requests for federal reimbursement, and process payment requests from Section 5311 Subrecipients
7. Monitor and evaluate the progress of ongoing transportation operations, including compliance with federal regulations
8. Provide technical assistance to Section 5311 Subrecipients to aid them in improving transit services

Subrecipients

In addition to the general program roles and responsibilities located in Chapter 1, Introduction, 43 TAC 31.36 recognizes the Section 5311 Subrecipients as partners who shall retain control of daily operations. The Obligation Certification is now part of the eGrants application process.

Eligible Subrecipients

State agencies, local public entities, private non-profit organizations, Native American tribes and organizations, and operators of public transportation services are eligible to receive Section 5311 funds through the department. Private for-profit operators of public transportation services may participate in the program through contracts with eligible Subrecipients. An entity must be a rural transit district to receive §5311 funds except that private for-profit operators of public transportation services and entities that are not rural transit districts are eligible to receive Section 5311 funds through the department under the intercity bus program. (43 TAC 31.36)

A Rural Transit District (RTD) is defined by 43 TAC 31.3 as “[a] political subdivision of the state that provides and coordinates rural public transportation within its boundaries in accordance with the provisions of Transportation Code, Chapter 458.”

A county that is not part of an RTD must (can) either join an existing rural transit district or create a new rural transit district.

To join an existing RTD, the county commissioner’s court must pass a resolution to join an existing RTD, and the board of the RTD must accept the county as a member.

To create a new RTD, the procedures described in Transportation Code, Chapter 458 must be followed. These procedures include holding a conference and hearing on the subject and enactment of a commissioner’s court resolution.

By joining an existing RTD, that county’s population and land area would be added to the formula for that RTD at the next opportunity for a formula funding distribution under Section 5311. If a new RTD is created, then the applicable population and land area are included as a new RTD in the 5311 formulas. Operating metrics will be added when they become available and would be included in the next formula distributions.

An RTD can also apply for competitive funds during a coordinated call.

Eligible Services and Service Areas

Section 5311 funds may be used for public transportation projects, including job access and reverse commute projects, and intercity bus transportation projects. Service information, including areas and characteristics, must be provided by all applicants as part of the grant application.

Provision of services to destinations outside the state of Texas will be considered on a case-by-case basis through consultation with the PTC and the PTN Program Manager. Agreements with the states of New Mexico, Oklahoma, Arkansas, and Louisiana may be required for out-of-state services before the award of funds and/or approval of a project grant agreement.

Eligible Assistance Categories

Eligible assistance categories for Section 5311 Formula and Discretionary funds are specified in 43 TAC 31.36(e) and in the grant applications. Eligible assistance categories include:

1. State administrative expenses. The department may use up to 10% of the annual federal apportionment to defray its expenses incurred for the administration of the Section 5311 program. These funds may also be used to provide technical assistance to Subrecipients. Technical assistance may include project planning, program development, management

development, coordination of public transportation projects, and related research. Projects are solicited from Subrecipients and other interested parties. State administrative and technical assistance expenses do not require a non-federal match.

2. Project Administrative Expenses. Costs not directly tied, but essential, to the operations of passenger transportation systems may be reimbursed at up to 80% with federal funds. The federal share may also increase in accordance with 23 U.S.C. §120(b)(2) as determined by FTA regarding the area of nontaxable Native American lands, individual and tribal, public domain lands (reserved and unreserved), national forest, and national parks and monuments. Eligibility standards for the higher federal share are defined in FTA Circular 9040.1G, or its latest version.
3. Operating expenses. Operating expenses are costs that are directly tied to transit operations, such as costs for fuel; oil; replacement parts; and driver, mechanic, and dispatcher salaries.
4. Capital expenses. Eligible items include:
 - a. Buses
 - b. Vans or other paratransit vehicles
 - c. Radios and communications equipment
 - d. Passenger shelters, bus stop signs, and similar passenger amenities
 - e. Wheelchair lifts and restraints
 - f. Vehicle rehabilitation, remanufacture, or overhaul
 - g. Preventive maintenance, including all maintenance costs
 - h. Extended warranties that do not exceed the industry standard
 - i. Mass transit portion of ferry boats and terminals
 - j. Operational support such as computer hardware or software
 - k. Installation costs and vehicle procurement, testing, inspection, and acceptance costs
 - l. Construction or rehabilitation of transit facilities, including design, engineering, and land acquisition
 - m. Facilities to provide access for bicycles to mass transit facilities and equipment for transporting bicycles on mass transit vehicles
 - n. Lease of equipment or facilities, provided that the local Subrecipient, with the concurrence of the department, determines that a lease is more cost effective than the purchase of equipment or facilities after considering management efficiency, availability of equipment, staffing capabilities and guidelines on capital leases as contained in 49 C.F.R. Part 639
 - o. Capital portions of costs for service under contract
 - p. Joint development projects (FTA Circular 9300.1B, or its latest version, provides guidelines for joint development projects)
 - q. Introduction of new technology, through innovative and improved products, into mass transportation
 - r. Transit-related intelligent transportation systems

- s. Provision of ADA paratransit service, which shall not exceed 10% of the state's annual apportionment of Section 5311 funds and shall be used only by Subrecipients that are in compliance with ADA requirements for both fixed route and demand responsive service
 - t. Mobility management consisting of short-range planning, management activities and projects for improving coordination among public transportation, and other transportation service providers carried out through an agreement entered into with a person, including a governmental authority, but excluding operating expenses
 - u. Crime prevention and security
5. The capital cost of contracting includes depreciation, interest on facilities and equipment, and those allowable capital costs that would otherwise be incurred directly, including maintenance. No capital assets (vehicle, equipment, or facility) that have any remaining federal interest and no items purchased with state or local government funds may be capitalized under the grant agreement.
 6. Planning Expenses. FTA Circular 8100.1C or its latest version has a complete list of eligible activities, which include: studies relating to management, planning, operations, capital requirements, and economic feasibility; evaluation of previous planning projects; work elements and related activities preliminary to and in preparation for constructing, acquiring, or improving the operations of facilities and equipment; safety, security, and emergency transportation and evacuation planning; and coordinated public transit-human service transportation planning.

Local Share and Local Funding Requirements

Program funds may be used for capital, project administrative, operating and planning expenses.

Capital Expenses

1. Federal funds may be used to reimburse up to 80% of eligible capital expenditures. The federal share may increase up to 85% of the net project cost for a project that involves acquiring vehicles for the purpose of complying with the Americans with Disabilities Act of the Clean Air Act.
2. The federal share may increase up to 90% for bicycle equipment of facilities projects or for incremental costs related to compliance with the Clean Air Act of the Americans with Disabilities Act.
3. The federal share may also increase in accordance with 23 U.S.C. Section 120(b)(2) as determined by FTA regarding the area of nontaxable Native American lands, individual and

tribal, public domain lands (reserved and unreserved), national forest, and national parks and monuments, with eligibility standards for the higher federal share being defined in FTA Circular 9040.1G, or its latest version.

Project Administrative Expenses

Project administrative expenses may be reimbursed at up to 80% with federal funds. The federal share may also increase in accordance with 23 U.S.C. §120(b)(2) as determined by FTA regarding the area of nontaxable Native American lands, individual and tribal, public domain lands (reserved and unreserved), national forest, and national parks and monuments. Eligibility standards for the higher federal share are defined in FTA Circular 9040.1G, or its latest version.

Operating Expenses

Operating expenses may be reimbursed at 50% of net operating costs. The federal share may also increase in accordance with 23 U.S.C. §120(b)(2) as determined by FTA regarding the area of nontaxable Native American lands, individual and tribal, public domain lands (reserved and unreserved), national forest, and national parks and monuments. Eligibility standards for the higher federal share are defined in FTA Circular 9040.1G, or its latest version.

Planning Expenses

Planning expenses may be reimbursed at up to 80% with federal funds.

Eligible Sources of Local Share

Eligible sources to satisfy local share requirements may be derived from the following:

1. An undistributed cash surplus, or a replacement or depreciation cash fund or reserve
2. A service agreement with a state or local social service or workforce agency, or a private social service organization
3. Amounts appropriated or otherwise made available to a U.S. department or agency that are eligible to be expended for transportation
4. Funds to carry out the Federal Lands Highways program established by 23 U.S.C. §204;
5. Funds available under §403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. §603(a)(5)(C)(vii))
6. In-kind contributions, volunteer services, and donations attributable to the project if the value is documented and previously approved by the department or
7. Transportation development credits, with prior department approval

Funds from any other U.S. DOT program are not eligible for use as local matching funds. For more information on local match resources, including programs that may provide matching funds for

Section 5311, refer to "[A Study of Sources Used for Local Revenue for Transit](#)," available on the TxDOT website.

Application Process

5311 Formula

Application are made available in the PTN eGrants grant management system to all applicants for the upcoming funding cycle. To receive funding, an applicant must be eligible to receive funding and mut comply with all applicable federal, state, and local laws and regulations.

The Certification and Assurances document provided by TxDOT must be signed for the current fiscal year prior to issuance of federal funds. The Certifications and Assurances is a compilation of the FTA's current expectations concerning the responsibilities of grant applicants.

5311 Discretionary, Intercity Bus, RTAP, and Fleet Replacement (Coordinated Call)

PTN uses a coordinated, biennial solicitation for competitive grant proposals for the following programs:

State Planning Assistance (Section 5304 Program)

1. RTAP
2. ICB
3. Rural Discretionary - A portion of the anticipated Rural Area Program discretionary fund
4. Fleet Replacement

This program call will be posted biennially during the fall, proposals will be due in the winter, and awards will be made in mid-to-late spring of the following year.

Project Selection Criteria and Method of Distributing Funds

Project selection uses multiple review approaches that include, but are not limited to formulas, transit agency and stakeholder panels, and TxDOT staff review. TxDOT will ensure that the process is consistent within all state and federal requirements. In some cases, projects must align with the locally developed, coordinated public transit-human service transportation plan.

Specific criteria for each program include the following:

- TxDOT grants Section 5311 funds to operators designated as RTD by Chapter 458, Transportation Code. The PTC and the Rural Program Manager will assist the applicant in assembling and developing the project, as needed.
- TxDOT follows a formula in 43 TAC 31.36, as approved by the commission. The allocation to rural transit districts follows set-asides for intercity bus service and state administration. 43 TAC 31.36(g) specifies the fair and equitable distribution of funds within the state. After subtracting funds for state administrative expenses in accordance with 43 TAC 31.36(e)(1), the department will allocate Section 5311 funds to local Subrecipients in the following manner and order per 43 TAC 31.36(g).

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

- a. The department will review all data on intercity bus service availability, including outstanding requests from intercity operators and rural transit districts, and levels of service.
- b. The department will consult with affected intercity bus service providers and rural transit districts.
- c. The department will consult with other state agencies that have jurisdiction with respect to intercity bus regulation and seek their recommendations as to the adequacy of current service.
- d. Based on the findings of subparagraphs (A), (B), and (C) of this paragraph, the commission, the chief executive officer of the state or the executive officer's authorized designee may certify to the adequacy of intercity bus service.

Need and performance allocation. Excluding the amounts allocated under paragraph (1) of this subsection, the balance of the annual Section 5311 federal apportionment, plus the remaining balance of previous Section 5311 federal apportionments.

- a. The need based allocation is 65% giving consideration to population weighted at 75% and on land area weighted at 25% by using the latest census data available from, and as defined by, the U.S. Census Bureau for each rural area relative to the sum of all rural areas.

- b. The performance-based allocation is 35%. The Subrecipient is eligible for funding under this subparagraph if it is in good standing with the department and has no deficiencies and no findings of noncompliance. The commission will award the funding by giving equal consideration to local funds per operating expense, ridership per vehicle mile, and vehicle miles per operating expense. These criteria may be calculated using the Subrecipient's annual audit for the previously completed fiscal year, data from other sources, or from the department's records.
- c. Funding stability.
 - i. Subject to the available apportionment, no award to a transit district under this paragraph will be less than 90% of the award to that transit district for the previous fiscal year. All allocations under subparagraphs (A) and (B) of this paragraph are subject to revision to comply with this standard.
 - ii. If a rural transit district experiences a negative impact in its performance factor calculations due to the acquisition or loss of service area, a natural disaster, such as wind, fire, or flood, or unforeseen anomaly, the department may mitigate that impact with an alternate calculation addressing the specific situation. This calculation may be repeated in subsequent years at the discretion of the department.

Discretionary allocation. If the amount of the Section 5311 federal apportionments exceeds the maximum amount that may be allocated under paragraph (2) of this subsection, a part of that excess, not to exceed 10% of the amount computed by subtracting, from the annual Section 5311 federal apportionment, the funds for state administrative expenses under subsection (e)(1) of this section and funds allocated for intercity bus transportation under paragraph (1) of this subsection, will be available to the commission for award at any time during the fiscal year on a pro rata basis, competitively, or a combination of both. Consideration for the award of these additional funds may include, but is not limited to, coordination and technical support activities, compensation for unforeseen funding anomalies, assistance with eliminating waste and ensuring efficiency, maximum coverage in the provision of public transportation services, adjustment for reductions in purchasing power, furtherance of the department's goals, and reductions in air pollution. An award under this subparagraph will not be considered for the purpose of applying the funding stability allocation process under paragraph (2)(C) of this subsection in succeeding fiscal years.

Vehicle mile allocation. Any amount of the annual Section 5311 federal apportionment that is not otherwise allocated under this subsection will be allocated to rural areas, with the amount allocated to a rural area based on the proportion of vehicle miles for that rural area to the total of vehicle miles for all rural areas.

Adjustments to allocation.

If part of a transit district's service area is changed due to declaration by the United States Census Bureau or the service area is otherwise altered, the department and that Subrecipient may negotiate an adjustment of funds for up to a three (3) year time period to mitigate negative impacts. This negotiated adjustment is not subject to the minimum and maximum standards set forth in paragraph (2)(C) of this subsection.

Application and contract. Prior to receiving funds, a Subrecipient must complete and comply with all application requirements, rules, and regulations applicable to the Section 5311 program. A completed application must be submitted, in a form prescribed by the department, and document the need and demand for general public passenger transportation services. A contract shall be for no less than 12 months unless authorized by the department.

PTN procedures for assuring equity of distribution of benefits among groups within the state, as required by Title VI of the Civil Rights Act, are included in the current FTA-approved PTN Title VI Program. The [PTN Title VI Program](#) is available on the TxDOT website

Policies and Procedures on Flex Funds

From time to time, TxDOT may be requested to flex transportation funding from Federal Highway Administration (FHWA) programs to FTA programs. These requests may come from MPOs, TxDOT District offices, or TxDOT Administration. Upon request, TxDOT's Financial Management Division will contact FHWA to arrange the transfer at the federal level. Funds are usually transferred into the Section 5311 program or Section 5307 program and then managed according to those program requirements.

Fleet Replacement

PTN offers 5311 and 5307 transit providers the opportunity to participate in a fleet replacement program using FHWA flexed funds. Funds identified in the Unified Transportation Program to be flexed to the 5311 and 5307 programs from the Surface Transportation Block Grant Program to maintain capital assets in a state of good repair will be considered as part of the Fleet Replacement Program. Eligible transit providers submit a project proposal for an amount of flex funds up to 50% of the total cost of project. The remaining 50% cost of the project must be from other sources of funds, , which can include 5307, 5311, or 5339 program funds, state funds, and local funds. Eligible types of projects are fleet and fleet related capital projects to maintain assets in a state of good repair. Note: The Fleet Replacement Program is a TxDOT program and is not a public transit program funded by FT A.

Annual Program of Projects Development and Approval Process

5311 Formula Program Process

Applications will be made available in the PTN eGrants grant management system for Subrecipients to complete and submit. TxDOT performs the first application review, and coordinates with the applicant for any clarification or revisions required. PTN Project Manager (PM) uses the applications to develop a Program of Projects (POP) and application to FTA. The minute order with award recommendations, is approved by the commission. The PM submits an application to TrAMS for FTA approval. Once FTA approves the application and the award recommendations are approved by the commission, the PM will make Project Grant Agreements (PGAs) available to Subrecipients within the PTN eGrants system.

Coordinated Call Program (for Section 5311 Discretionary, ICB, RTAP, Fleet Replacement) process

In the Coordinated Call Program for Section 5311 Discretionary, ICB, RTAP, and Fleet Replacement, applications are made available in PTN eGrants online grant management system. PMs and PTN management organize a scoring committee and develop an evaluation matrix to evaluate projects. A PTN scoring team evaluates and scores applications within the PTN eGrants system. PMs review applications, score team comments, and score and request additional information from the applicant, if necessary, to develop proposed projects list for management review and approval.

The PM uses the approved list of proposed projects to develop a POP and application to FTA. The minute order with award recommendations is approved by the commission. The PM submits an application to TrAMS for FTA approval. Once FTA approves the application and the award recommendations are approved by the commission, the PM will make PGAs available to Subrecipients within the PTN eGrants system.

Section 5311(f) Intercity Bus Transportation

ICB Service is provided for the general public and connects urban areas through fixed routes. This program is designed to strengthen the connection between rural areas and the larger regional or national intercity bus system. ICB also supports the system's infrastructure through planning, marketing assistance and capital investment in facilities and vehicles.

The rural program has 15% of its budget dedicated to ICB projects. If it is determined that all or a portion of the set-aside monies is not required for ICB, the balance of the annual Section 5311 federal apportionment will be allocated to rural transit providers.

Eligible Subrecipients for ICB

Operators of public transportation services, including private operators of public transportation services, are the primary recipients of Section 5311(f) funds.

Eligible Expenses for ICB

As with the Section 5311 program, TxDOT makes funds available for operating assistance, capital projects, planning projects, and marketing projects. Expenses must be representative of the approved project.

Local Match Requirements for ICB

For an ICB project that includes both feeder service and an unsubsidized segment of ICB service to which the feeder service connects, in-kind match may be derived from the costs of a private operator for the unsubsidized segment of ICB services for the operating costs of connecting rural intercity bus feeder services. The private operator must agree in writing to the use of the costs of the unsubsidized segment of ICB services as in-kind match.

Section 5311(b)(3) Rural Technical Assistance Program

The national program provides for the development of information and materials for use by local operators and state-level administrators and supports research and technical assistance projects of national interest. Additionally, the program provides an annual allocation to each state to develop and implement training and technical assistance programs in conjunction with the administration of the Section 5311 formula program. The RTAP application process is part of the Coordinated Call.

The RTAP Program Coordinator is primarily responsible for developing and implementing the program. The program provides an opportunity for additional training and technical assistance to transit system personnel and planners to compliment the technical assistance provided by TxDOT staff.

Project selection is based on the overall benefit to the rural transit program and the TxDOT's public transportation strategic goals. Some of the activities that have qualified for RTAP funds are:

1. The annual statewide transit "Roadeo"
2. Statewide research projects
3. Training seminars
4. Financial assistance to rural public transit systems and specialized service providers to attend courses, seminars, and workshops

5. Financial assistance to small and large urban systems so long as the activities are primarily designed and delivered to benefit rural transit providers and RTAP funds pay only the proportion of the project costs attributable to the rural beneficiaries
6. Technical assistance with business practices to individual transit agencies
7. Peer to peer workshops
8. Transit Scholarship Program

Transit Scholarships Program

PTN uses a portion of annual RTAP allocations for its Transit Scholarships Program. The Scholarship program is designed to give Subrecipients the opportunity to send employees to transit-related training, transit “roadeos,” and to obtain reimbursement for the training- and travel-related expenses. The program also provides financial assistance to Subrecipients for purchasing eligible training-related materials and services for in-house training. Seminars and conferences are not eligible under this program but shall continue to be eligible under operating grants, as appropriate.

Subrecipients may apply year-round, on an as-needed basis when opportunities arise, in the PTN eGrants system using the Scholarship application form. Reimbursement will likewise occur in eGrants. The Transit Scholarships Program is limited to agencies that receive transit funds directly from PTN and that have a current Master Grant Agreement (MGA) in eGrants, signed annual Certifications and Assurances in eGrants, and an Internal Compliance Program Certification approved by the department.

Application Procedures:

1. Agencies must submit scholarship applications in the eGrants system no less than 10 days before training and travel begins. PTN will reimburse agencies only for those expenses that have been pre-approved in the PTN eGrants system.
2. Separate scholarship applications must be submitted for each individual employee attending the training. If employees are carpooling or sharing a room, submit the requested shared expenses on one application only and reference the shared expenses on the other applications.
3. The number of scholarships provided to an agency may be limited. Scholarships will not be provided for an employee to repeat the same training.
4. Agencies sending more than one employee to training should carpool to reduce travel expenses. If claiming mileage and carpooling is not used, the agencies must justify the individual travel mode in writing and acquire prior approval. Only one driver should itemize the mileage. Any driver changes may require corrections to the scholarship applications.

5. Scholarship applications may also be submitted for agencies requesting in-house training for a group of employees. In-house training scholarships are limited to the tuition and other pre-approved expenses of the class; no travel or meal expenses are permitted.
6. Out of state training, specifically including training in states adjacent to Texas, may be allowed under this program on a case-by-case determination. Requests will be considered only for transit training not available in Texas.
7. Travel and meal expenses will be paid for training that is considered out of town and includes overnight lodging.
8. Meals will not be paid unless overnight lodging is necessary.
9. Travel expenses for first and second place winners of regional rodeos to the Texas state rodeo are eligible as budget allows.
10. Travel expenses for first place winners of the Texas state rodeo to Community Transportation Association of America or American Public Transportation Association national rodeos are eligible for consideration as budget allows.

Reimbursement Requirements:

1. Reimbursements will be based upon Texas Comptroller of Public Accounts [Textravel](#) website, which provide guidelines for travel expenses. Payments for actual travel expenses may not exceed the limits reimbursable under applicable law or regulations.
2. Reimbursement requests must be received by PTN within 45 calendar days of the last day of training or training-related travel. Requests received after 45 days may be denied.
3. Legible copies of all receipts must be uploaded as attachments in the eGrants Scholarships Request for Reimbursement form and submitted to PTN. Meal receipts are not required to be submitted but must be kept on file at the agency.
4. Payments will be made to the agency, not to individual employees.
5. All records related to the scholarship program, including receipts, must be kept on file at the agency for a period of three years after final reimbursement from PTN.
6. No travel advance payments will be made. Reimbursement will be made after travel and training are completed. To be eligible for reimbursement, a cost must be incurred, and proper documentation submitted and/or retained.
7. Students must attend all training and receive a certificate of training or other proof of attendance. Copies of the training certificate, the class attendance roster or other verification of attendance must be attached to the reimbursement request.
8. Agencies will be paid from TxDOT within 30 days of submitting the completed reimbursement request and appropriate documentation to PTN.
9. Reimbursement requests must meet all federal and state requirements.
10. Transit agency acceptance of a reimbursement under the scholarship program prohibits any additional reimbursement under other federal or state programs.

Eligible Subrecipients for RTAP

The primary beneficiaries of RTAP funds are rural transit districts. As appropriate, recipients of other FTA funds can participate.

Eligible Expenses for RTAP

Expenses specifically relating to training, technical assistance, research, and related support activities are eligible.

Match Requirements for RTAP

There is no federal requirement for local match for RTAP assistance.

Private Sector Participation

Recipients of state and federal public transportation funds shall to the maximum extent feasible provide for the participation of private companies engaged in public transportation. In accordance with 43 TAC 31.36, private for-profit operators of public transportation services may participate in the program through contracts with eligible Subrecipients. An entity must be an RTD to receive Section 5311 funds except that private for-profit operators of public transportation services and entities that are not RTDs are eligible to receive Section 5311 funds through the department under the ICB program.

Administrative Requirements for Section 5311 Program

Refer to Chapter 5, Administrative Requirements for All Programs, for grant administrative requirements in the Section 5311 Program.

SPECIAL SECTION ON 5311 FUNDING FOR THE CORONAVIRUS (COVID-19) PUBLIC HEALTH EMERGENCY 2020

The Coronavirus (COVID-19) pandemic spread throughout the nation in 2020, greatly impacting the transit industry and its attempts to respond. FTA took several actions to support transit providers by allowing increased match ratios of 5311 formula funds through the FTA Emergency Relief Program and apportioning additional funds through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, allowing eligibility of non-traditional activities and expenses and waiving certain federal requirements.

FTA Emergency Relief Program

On March 13, 2020, FTA Acting Administrator K. Jane Williams authorized transit providers in states where the governor declared an emergency related to COVID-19 to use their federal formula funds to take measures to protect the health and safety of their riders and their workforce and permitted operating expenses to be covered at 80% federal participation, later increased to 100%. Expenses must be relevant to COVID-19 to be eligible for the increased federal participation.

On March 13, 2020, the Governor of Texas, Greg Abbott, declared an emergency related to COVID-19, and on March 23, 2020, submitted a request to the White House for a Presidential Declaration of Emergency with an incident date of January 20, 2020, which President Donald J. Trump approved on March 25, 2020.

CARES Act

The United States Congress passed the CARES Act on March 27, 2020, which authorizes funding under the FTA Formula Grants for Rural Areas Program (49 U.S.C. §5311) to prevent, prepare for, and respond to the coronavirus (COVID-19).

The CARES Act provides additional funds for the 5311 program, available at 100% federal participation and no local match requirement, to respond to the coronavirus public health emergency, as described in Section 319 of the Public Health Service Act, beginning January 20, 2020. CARES funding is made available to transit providers for operating costs to maintain service and address lost revenue due to the COVID-19 public health emergency. Funds are available to eligible 5311 and ICB Subrecipients. All activities normally eligible under the 5311 Rural Area Formula Program (49 USC 5311) are eligible for CARES Act funding, including planning, capital, operating, and administration activities. Funds are available until expended. No lapse date is identified, although if the emergency declaration is lifted, FTA may determine that costs incurred after that time would not be claimed for this assistance. Operating expenses and capital expenses that do not involve a substantial change to the location, function, or capacity of an asset do not need to be in a TIP/STIP or long-range plan.

TxDOT administration of CARES Act funding will be consistent with the project selection and funding distribution protocols established elsewhere in this chapter, including the distribution of funds using allocations derived from the formula at 43 TAC 31.36 to address CARES Act objectives for immediate relief, economic recovery, and resiliency.

In consultation with ICB carriers, it was determined that previously unsubsidized routes historically used as in-kind match for subsidized routes may be eligible for CARES Act funding to support continuity of service to the ICB network.

Eligible Activities and Expenses

To provide flexibility for transit providers responding to the COVID-19 crisis, FTA waived certain federal requirements and made allowances for certain non-traditional activities and expenses relative to both CARES funds and 5311 funds used for emergency relief. These have been published on FTA's website under [Frequently Asked Questions from FTA Grantees Regarding Coronavirus Disease 2019 \(COVID-19\)](#). Examples include, but are not limited to:

- Administrative Leave
- Removal of health and safety hazards, such as additional vehicle and facilities cleanings
- Costs associated with shutting down and/or restarting service.
- Materials like hand sanitizer, gloves, soap, and cleaners.
- Protective equipment/supplies. Temporary service, that is not part of regular service, provided in response to the pandemic.
- Essential delivery services, such as meal delivery (this is limited to six-months following January 20, 2020 if using Section 5311 funds under the emergency relief declaration)

FTA has placed some limitations on the use of Section 5311 funds for emergency relief that do not apply to CARES. These are published on [FTA's website](#).

Chapter 4 – Section 5339 Program: Bus and Bus Facilities Formula Program

Program Purpose and Authority

The Bus and Bus Facilities Program is authorized under the provisions set forth in the FAST Act under Section 5339 of Title 49, United States Code. TxDOT receives Section 5339 from the FTA to provide grants to rural and small urban areas within the state to assist in financing capital projects to replace, rehabilitate, and purchase buses and bus-related equipment and to construct bus-related facilities.

Title 43, TAC, Section 31.30 prescribes many of the policies and procedures to be followed by TxDOT for the Section 5339 Grant Program. The policies and procedures in this SMP are the same as those in the TAC and are augmented by additional federally required policies and procedures in the most current FTA regulations and circulars.

Program Goals and Objectives

The 5339 Bus and Bus Facilities Program objective is to make resources available for Subrecipients to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities including technological changes or innovations to modify low or no emissions vehicles or facilities. These tasks are accomplished by replacing fleet and equipment that have exceeded their useful life benchmarks, overhauling fleet that are good candidates for operation past their intended disposition range and working with Subrecipients to make facility repairs and/or upgrades to technology that impacts their transit operations; such as communication, fare collection, and security equipment.

Program Roles and Responsibilities

Public Transportation Division

In addition to the general program roles and responsibilities located at Chapter 1, Introduction, 43 TAC 31.30 requires the department, as administrating agency, to:

1. Develop application materials and disseminate information to prospective applicants and other interested parties
2. Develop evaluation criteria and select projects for funding, with input from local entities and local individuals
3. Prepare the state's annual program of projects and funding application and submit that material to the FTA for approval
4. Negotiate and execute contracts with local Section 5339 recipients

5. Prepare requests for federal reimbursement and process payment requests from Section 5339 recipients
6. Monitor and evaluate the progress of ongoing transportation operations, including compliance with federal regulations and coordination of services
7. Provide technical assistance to Section 5339 recipients to aid them in improving and coordinating transit services

Subrecipients

Subrecipients are responsible for carrying out selected projects in accordance with the grant agreement, state and local laws and rules, and federal program guidance as described in this chapter and Chapter 5 Administrative Requirements for Programs.

Coordination

State Agency Level Coordination

State agency level coordination includes programming the grant in the State Transportation Improvement Program (STIP), which is done through communication with the Transportation Planning and Programming Division (TPP), and the advancement of environmental findings, which is done through communication with the Environmental Affairs Division (ENV), who then coordinates as needed with the Texas Commission on Environmental Quality (TCEQ), State Historical Preservation Office (SHPO), and other agencies.

Project-level Coordination

Some Subrecipients are able to select projects without any coordination while others require local board action. Similarly purchase approval requirements vary by Subrecipient based on expected costs.

Eligible Subrecipients

All RTDs in the state are eligible to participate in the 5339 program. Small Urban Transit Districts operating in small urban areas in the governor's apportionment (those cities with populations between 50,000 and 199,999) are also eligible.

PTN applies on behalf of RTDs. The funds are distributed through Project Grant Agreements (PGA) to each Subrecipient. For Small Urban Transit Districts, the small urban areas' direct recipient is responsible for applying in the FTA Transit Award Management System (TrAMS) to request their area's funds after their award amount is calculated by PTN.

Eligible Activities

Administrative Expenses

Subrecipient administrative activities pertaining to the immediate accomplishment or oversight of a project are eligible. Project administration costs must be directly associated with administering the capital project. General administrative expenses that a Subrecipient incurs to implement the program (as contrasted with the eligible costs directly related to administering a capital project) are not eligible as a direct cost under the 5339 program.

Capital Expenses

Eligible activities include, but are not limited to:

- Some fleet maintenance expenses (overhaul, for vehicles at about 40% of useful life, or rebuild, for vehicles nearing or exceeding the end of useful life). Typical overhaul and rebuild projects include engine / transmission replacement, major lift repair, and major HVAC repair.
- Vehicle replacement or vehicles to be used in service expansion
- Facility projects
- Passenger amenities (shelters, signage)
- Miscellaneous equipment, such as shop equipment, communication, etc.

In general (see “Project Selection Criteria and Method of Distributing Funds”), eligible expenses are limited to “hard capital,” that is, some expenses such as purchase of service which are considered capital and are eligible in other programs are not eligible in the 5339 Program. General preventive maintenance expenses are not eligible.

Operating Expenses

Operating expenses are not eligible for reimbursement.

Local Share and Local Funding Requirements

Federal funds may be used to defray up to 80% of the cost of eligible capital expenditures. The federal share may increase to up to 85% of the net project cost for a project that involves acquiring vehicles for the purpose of complying with the Americans with Disabilities Act or the Clean Air Act. The federal share may increase to up to 90% for incremental costs related to compliance with the Clean Air Act in areas of air quality non-attainment or with the Americans with Disabilities Act of 1990, with concurrence from the department.

Eligible Sources of Local Share

Eligible sources to satisfy local share requirements may be derived from the following:

1. Undistributed cash surplus, or a replacement or depreciation cash fund or reserve
2. Service agreement with a state or local social service or workforce agency, or a private social service organization
3. Amounts appropriated or otherwise made available to a U.S. department or agency that are eligible to be expended for transportation
4. Funds to carry out the Federal Lands Highways program established by 23 U.S.C. §204
5. In-kind contributions, volunteer services, and donations attributable to the project if the value is documented and previously approved by the department or
6. Transportation Development Credits (TDCs), with prior department approval. TDCs have historically been used by Subrecipients to match 5339 funds

Funds from any other U.S. DOT program are not eligible for use as local matching funds.

For more information on local match resources, including programs that may provide matching funds for Section 5339, refer to "[A Study of Sources Used for Local Revenue for Transit](#)," available on the TxDOT website.

Project Selection Criteria and Method of Distributing Funds

Project Selection Criteria and Method of Distributing Funds

The formula-based 5339 program is awarded annually via FTA apportionments. Funds for this program are set nationally and distributed to each state's direct recipient. For Texas, TxDOT is the direct recipient for Rural Transit Districts (RTD). For Small Urban Transit Districts, the small urban area's direct recipient applies directly to FTA for funds. Funds are distributed as follows:

1. Rural Transit Districts: Although apportionments are posted annually, PTN distributes the funding every two years to reduce administrative burden and award funding amounts suitable for capital projects, such as fleet replacement and facility renovation, etc.
2. Small Urban Transit Districts: After apportionments are posted, PTN notifies FTA how much each urbanized area is eligible for and notifies the direct recipients when they may apply in TrAMS for the funds.

Funding Calculation

Funds for each specific area are calculated as follows:

For Rural Transit Districts PTN will:

- a. Allocate the available program funds so that each eligible Subrecipient will receive a proportional share of available funding based on the total vehicle miles reported to the department on an annual basis with no eligible Subrecipient receiving less than 1% of the amount available;
- b. Develop application materials and disseminate information to eligible Subrecipients;
- c. Prepare the state's funding application and submit the application to the FTA for approval;
- d. Negotiate and execute contracts with Subrecipients;
- e. Prepare requests for federal reimbursement and process payment requests from Subrecipients;
- f. Monitor and evaluate the progress of local projects, including compliance with federal regulations; and
- g. Provide technical assistance to Subrecipients as necessary.

For Small Urban Transit Districts PTN will:

- a. Allocate the available program funds so that each eligible recipient will receive a proportional share of available funding based on the total vehicle miles reported to the department on an annual basis with no eligible recipient receiving less than 1% of the amount available;
- b. Notify the FTA of the results of the allocation calculations;
- c. Notify the small urban transit districts of the results of the allocation calculations; and
- d. Authorize the small urban transit districts to apply directly with the FTA for the funds, due to their status as direct recipients under the FTA §5307 program.

PTN procedures for assuring equity of distribution of benefits among groups within the state, as required by Title VI of the Civil Rights Act, are included in the current FTA approved PTN Title VI Program. The [PTN Title VI Program](#) is available on TxDOT's website. The 2018 document is entitled: Title VI Program.

Annual Program of Projects Development and Approval Process

Once award amounts are calculated and approved via commission action, RTD Subrecipients shall apply in the PTN eGrants system to request their allocated funds and submit proposal applications. These applications are then evaluated by PTN using the FTA 5339 Bus and Bus Facility program's eligible projects criteria. If the submitted projects are deemed allowable expenses, the eGrants application will be tentatively approved.

After project eligibility is determined, PTN creates a POP. The POP contains a list of projects to be funded in certain applications submitted to FTA by a designated recipient, state, or local government. It includes a brief description of the projects, the total project cost, and the federal share for each project

Once the POP is completed, a statewide grant application is created and submitted for federal review through TrAMS. After submission, the projects are reviewed at the federal level for eligibility.

Note: While Small Urban Transit Districts request funds directly from FTA, these recipients must notify PTN when the funds are obligated in a TrAMS application to ensure funds do not expire.

Once the TrAMS application is executed, PTN will approve applications and distributes them for signature execution. Once signed by the Subrecipient and PTC, the Subrecipient may begin incurring expenses against the grant.

Administrative Requirements for Section 5339 Program

Refer to Chapter 5, Administrative Requirements for All Programs, for grant administrative requirements in the Section 5339 Program.

Chapter 5– Administrative Requirements for All Programs

COVID-19

In 2020, the Coronavirus (COVID-19) public health emergency impacted operations of organizations across the country. In response to the adverse effects that recipients and subrecipients of federal funds are facing, the FTA and the Office of Management and Budget (OMB) have issued and may continue to issue guidance regarding ease of restrictions/allowances during this crisis. PTN will continue to share information provided by the FTA and OMB which addresses various topics and program areas.

Additionally, to protect personnel from exposure to COVID-19, onsite reviews may be conducted virtually when deemed necessary.

PTN eGrants System

PTN utilizes an electronic grants management system, eGrants, to automate previous paper-based, manual grant management functions. Implementation of the eGrants system was phased in beginning in fiscal year 2016 and is PTN's official record of all grant programs as of 2018.

The PTN eGrants web address is: <https://apps2.dot.state.tx.us/apps/egrants2/logout2.aspx>. For assistance with eGrants contact the PTC or the eGrants Helpdesk at ptn-egrantshelp@txdot.gov or 512-486-5957. Hours of operation are Monday through Friday 8am-4pm Central Time.

Uniform Administrative Requirements

OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards found within 2 CFR Part 200 and 2 CFR Part 1201 supersede the Uniform Administrative Requirements for Grants and Cooperative Agreements to State of Local Governments found within 49 CFR Part 18 and the Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations found within 49 CFR Part 19.

49 CFR Part 18 and 19 will apply only to federal grants obligated on or before December 25, 2014. 2 CFR Part 200 and 1201 administrative requirements and cost principles will apply to new federal awards issued by federal awarding agencies on or after December 26, 2014. Grants must also be administered in compliance with the [Texas Uniform Grant Management Standards](#).

Financial Management

As primary recipient of FTA apportionments to states, and as the state agency designated to administer such funds for transportation activities in Texas, TxDOT will manage the fiscal elements

of these programs in accordance with its existing procedures, FTA guidelines, and other applicable state and federal regulations.

Accounting Systems

All Subrecipients are required to establish and maintain an accounting system to which all transportation-related costs, revenues, and operating costs are recorded so that they may be clearly identified, easily traced, and documented. The fully allocated cost of the public transit program must be clearly identified regardless of the operational nature of the agency serving as the designated transit system.

TxDOT maintains a financial management system of financial reporting, accounting records, internal controls, and budget controls. All systems and procedures for financial management are compliant with OMB Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards (2 CFR Part 200) and the Texas Uniform Grant Management Standards.

TxDOT and the Subrecipient are both responsible for documenting and supporting all costs charged to the project. Examples of documentation include, but are not limited to:

1. General Ledger Reports
2. Payroll Records and Reports
3. Time records
4. Invoices for goods and services purchased
5. PGAs
6. Vouchers
7. Proof of Payment for incurred costs

5311 and 5307 Direct Cost Allocation Plans

Subrecipients that receive 5311 funds and operate in 5307 geographical areas must prepare a cost allocation methodology plan to document how costs are split between urban and rural service. The fully allocated cost of public transit program must be clearly identified regardless of the operational nature of the agency serving as the designated transit system.

5311 and 5307 Direct Cost Allocation Plans shall be submitted in the PTN eGrants system at time of application and must be updated annually by the Subrecipient. PTN will review 5311 and 5307 Direct Cost Allocation Plans at the application review phase and again when an annual update is submitted.

All costs allocated using a 5311 and 5307 Direct Cost Allocation Plan must be adequately documented.

Indirect Cost Procedures

Federal requirements governing the use of indirect costs on federal awards are provided in 2 CFR Part 200, specifically, 2 CFR §200.210 and 2 CFR §§200.412-.417, and 2 CFR Part 200 Appendix VII, and FTA Circular 5010.1E. For the programs administered by PTN, Subrecipients may charge indirect costs as applicable to the 5311 Formula program and 5304 Planning program. Indirect costs are those that have been incurred for common or joint purposes benefiting more than one cost objective and not readily identified with a final cost objective without effort disproportionate to the results achieved. The diverse nature of Subrecipient organizational and accounting structures may make it difficult to standardize the classification of costs as either direct or indirect. Identification with the federal award versus the nature of the goods/services involved may help distinguish direct from indirect costs of a federal award. However, costs must be consistently charged as either direct or indirect and may not be double charged or inconsistently charged as both. A cost may not be allocated to a federal award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to a federal award as a direct cost.

Subrecipients desiring to claim indirect costs under federal awards must prepare an indirect cost rate proposal and related documentation to support those costs. The proposal and related documentation must be retained for audit in accordance with the records retention requirements contained in 2 CFR §200.333 Retention Requirements for Records. Indirect cost proposals must be developed within six months after the close of the agency's fiscal year, unless an exception is approved by the cognizant agency for indirect costs. Guidance on submission and documentation requirements can be found in 2 CFR Part 200, Appendix VII. In summary:

A Subrecipient who receives more than \$35 million in direct federal funding must submit its indirect cost rate proposal to its cognizant agency. Subrecipients who do not receive more than \$35 million in direct federal funding must develop an indirect cost proposal and maintain the proposal and related supporting documentation for audit but are not required to submit the proposal unless specifically requested to do so by their cognizant agency. (Note: where an agency *only* receives funds as a Subrecipient of TxDOT, PTN will be responsible for negotiating and/or monitoring the Subrecipient's indirect costs.)

All indirect cost rate proposals must be accompanied by a "Certificate of Indirect Costs" delineating the indirect cost rate, base, and effective period. The certificate must be signed by an individual at a level no lower than Vice President or Chief Financial Officer of the agency. Guidance on the submission, documentation and format of the Certificate of Indirect Costs can be found at 2 CFR Part 200, Appendix VII.

Subrecipients who have not previously had a negotiated indirect cost rate may elect to use a 10% 'de minimis' rate of modified total direct cost without negotiating an indirect cost rate or submitting an indirect cost rate proposal. This election must be made at the time of application.

Requesting the Use of Indirect Costs

The election to charge indirect costs on a PTN PGA must be made at time of application. If not using the de minimis rate, a Certificate of Indirect Costs documenting the Subrecipient's percentage rate, distribution base, and the effective period in which the rate will be used is required to be uploaded into e-Grants at the time of grant application. Throughout the life of the grant, the certificate must be updated upon expiration, thereby maintaining an up-to-date certificate in the system for the duration of the grant award.

The indirect cost billing rate will allow the Subrecipient to include indirect costs within the grant budget, and to accrue indirect costs during the grant period of performance. The approved billing rate will be based upon the rate requested in the Certificate of Indirect Costs submitted and indirect costs may not be requested for reimbursement until PTN receives a certificate from the Subrecipient.

Transportation Development Credits

TDCs are a tool that allows entities to meet project match requirements. Subrecipients may request TDCs to be used towards the non-federal matching share of public transportation capital projects through the eGrants application process. PTN is authorized by the Commission to use its discretion to award TDCs for eligible projects. Subrecipients TDC expenditures are tracked as part of the overall project budget.

Local Match

Subrecipients must provide local matching share for projects as described in Chapters 2, 3, and 4. Local match funds must be from an allowable source to match federal funds. Funds from any other U.S. DOT program are not eligible for use as local matching funds.

For more information on local match resource refer to "[A Study of Sources Used for Local Revenue for Transit](#)," available on TxDOT's website.

Program Income

Program income is the gross income received by the Subrecipient directly generated by a grant supported activity or earned only as a result of the grant agreement during the grant period (the time between the effective date of the grant and the ending date of the grant reflected in the final financial report). Subrecipients must retain program income and apply such income to eligible capital or operating expenses. Some sources of program income may be used for local match when authorized. Farebox revenues, regardless of when they are earned, must be deducted from the total allowable expenses and cannot be used as local match.

Reimbursement Procedures

Reimbursement of Costs Incurred by PTN

PTN incurs programmatic and administrative costs in administering transit programs. On a periodic basis, PTN prepares reimbursement requests within the TxDOT PeopleSoft system for accrued costs. Once the reimbursement request is submitted by PTN in PeopleSoft, the Financial Management Division will enter requests in the PeopleSoft Project Costing module. A second person in the Financial Management Division will analyze and review the queries for accuracy and check the requested reimbursement amounts against available balances in the FTA TrAMS system. Inaccurate or incomplete requests will be removed and reported to PTN for resubmittal. The remaining queries will be re-analyzed and prepared for submission into the Electronic Clearing House Operation (ECHO) system. A third person in the Financial Management Division will access ECHO and enter the grant information and the requested reimbursement amount. Once approved, the ECHO reimbursement requests will be submitted. FTA electronically wires, via ACH, the funds to TxDOT within one to two days after ECHO approval. Once TxDOT receives the funds, Financial Management Division enters the amounts received in PeopleSoft for each PTN project.

PTN Policy of Reimbursement of Costs to Subrecipients

PTN financial assistance to Subrecipients is paid on a reimbursement basis, meaning costs must be incurred and paid by the Subrecipient before reimbursement may be sought from PTN. Subrecipients may not seek reimbursement for expenses incurred but not yet paid. Subrecipients shall submit requests for reimbursement (RFRs) monthly but not more frequently than monthly in accordance with the Master Grant Agreement (MGA), unless an exception is allowed by PTN.

Subrecipient Reimbursement Process for grants administered in the PTN eGrants system

Upon incurring eligible program costs and paying for incurred costs, Subrecipients must complete the RFR form within the PTN eGrants system, upload the required supporting documentation, and submit the RFR request to PTN.

The RFR must be complete, accurate, and include supporting documentation. PTCs shall review RFR submittals to ensure the billing form and supporting documentation are complete and accurate. Properly completed RFRs of less than \$250,000 will be approved for processing by the PTC. RFRs of more than \$250,000 will receive an initial review and approval by the PTC and a secondary review and approval by a PTC lead. RFRs approved by the PTC and/or PTC supervisor will be automatically forwarded to the TxDOT Financial Management Division where payment will be initiated and then paid by the Texas Comptroller of Public Accounts. Payment made by the Texas Comptroller of Public Accounts will be made via electronic fund transfers or warrant to the account on record.

Properly submitted RFRs will be paid no later than 30 days after date of receipt from the Subrecipients. RFRs that are incomplete, inaccurate, or otherwise not in compliance with PTN requirements will not be accepted for processing until deficiencies in the RFR submission are

corrected. Non-compliant RFR submissions may be returned to the Subrecipient for corrections and will not be processed until all deficiencies have been addressed as requested by the PTC.

Alternate Reimbursement Request (Two-Party Check Option)

The Alternative Requests for Reimbursement process establishes a two-party check option allowing the state to pay both a Transit Provider and a vendor for Subrecipient purchases of large capital items such as transit vehicles. This process for reimbursement is intended primarily for capital purchases of \$50,000 or more but may be allowed for capital purchases under \$50,000 or for planning and operating expenses with PTN Director approval on a case-by-case basis. All requests for two-party checks shall be allowed only upon demonstrated Subrecipient need.

To request an Alternate Reimbursement Subrecipients must submit a written request via mail or email to their PTC at least 45 calendars before payment to the vendor is due. Written requests must include:

- Transit Provider Name
- Transit Provider Vendor ID
- Transit Provider Mailing address (where check is to be mailed)
- Transit Provider Contact Person
- Contact Phone Number
- TxDOT Project Number
- Date Desired
- Estimated Reimbursement Amount
- Vendor Name
- Justification

The Program Manager, PTN Administration, and Program Support Section Director shall promptly review each request and notify the Subrecipient via letter or email if the request is approved or denied.

Reimbursement Documentation

PTN has established a streamlined documentation reimbursement process and a full documentation reimbursement process as described below. PTN will determine which documentation approach is appropriate for each Subrecipient based an ongoing review of performance.

Streamlined Documentation Reimbursement

Streamlined reimbursement requests consist of a request for reimbursement form and general ledger reports to support the amounts requested for reimbursement. The full supporting

documentation shall be maintained by the Subrecipient and available upon request. The streamlined reimbursement method may be allowed for entities that demonstrate, through past performance, no financial deficiencies or other monitoring concerns, and an adequate accounting system capable of producing general ledger reports that allow the tracing of expenditures to specific grants. The primary means for determining past performance shall be quarterly financial reviews, biennial compliance reviews, triennial reviews, annual audits, and timely resolution of improvement action plans.

Full Documentation Reimbursement

The full documentation method shall include reimbursement request forms and the submission of all supporting documentation to adequately document all costs requested for reimbursement.

Subrecipients with recent financial deficiencies, changes in organizational structure, changes in service, changes in key personnel or accounting systems, or have accounting systems unable to generate adequate records will be required to submit requests for reimbursement using the “full-documentation” method for a time period specified by PTN.

The primary means for determining performance shall be the review of requests for reimbursement, quarterly financial reviews, biennial compliance reviews, triennial reviews, annual audits, and timely resolution of improvement action plans. Such results will be reviewed on an ongoing basis, and Subrecipients, if requested to provide full documentation, shall be promptly notified in writing of the requirement to submit reimbursement requests using the full-documentation method.

Supporting documentation shall include general ledger, payroll records (time sheets), calculations of indirect costs charged, invoices, packing slips documenting receipt of items, travel authorization, and proof of electronic payment or canceled checks for all costs requested for reimbursement. For costs charged to credit cards, itemized credit card statements and evidence of payment of the credit card must be demonstrated.

Costs reimbursed for planning grants shall be evidenced by the above referenced documentation, in addition to the prior submission and approval of deliverables. Such requests for reimbursement shall clearly identify the deliverables or milestones for which reimbursement is sought.

Reimbursements submitted on the full-documentation method shall be complete, accurate, and organized in such as manner as to be readily reviewed without undue burden or effort on the part of the TxDOT reviewer.

Budget Revisions and Amendments

During the course of the project, it may become necessary to make modifications to the project in the form of budget revisions or PGA amendments.

Budget Revisions

Changes may be made in the form of a budget revision if the purpose, scope and amount of the PGA will remain consistent with the applicable Approved Project Budget. This may include a transfer of funds between or among budget categories within an approved PGA. A budget revision cannot be used to change the purpose, scope, total dollar amount, or terms and conditions of the PGA.

To request a budget revision, Subrecipients must submit a written budget revision request to their PTC, via mail, e-mail, or through the PTN eGrants system. The written notification must describe the budget revision and explain the need for the revision. To be considered for PTN review and approval, the budget revision must meet the following criteria:

1. Does not result in the need for additional funds
2. Does not exceed 10% of the current total approved budget and the federal or state funding exceeds \$100,000
3. Does not exceed the current total approved budget
4. Does not involve a transfer of funds from an authorized capital equipment purchase to another category
5. Does not involve a transfer of funds from training to another expense category
6. Does not involve a transfer of funds from construction to a non-construction category
7. Does not involve a transfer of funds from a direct to indirect cost category

Budget revision requests will be reviewed and approved at PTN's discretion. Subrecipients will be promptly notified of the result of their budget revision request. Approved budget revisions shall be effective upon PTN's approval of the budget revision request. PTN shall update internal project financial records and billing forms with PeopleSoft and eGrants, and Subrecipients are provided with an updated billing workbook by PTN.

On an annual basis, PTN will update the POP in TrAMS to reflect budget revisions and amendments.

Amendments

An amendment may be used to modify the scope, purpose, grant period of performance, budget of a PGA, or the amount of federal and/or state assistance. To request an amendment, Subrecipients must submit an amendment request through the PTN eGrants system to their PTC. The notification must describe the amendment, explain the need for the amendment, and be received by PTN at least 30 days prior to expiration of the grant agreement. Amendments must be executed by both parties within the grant period of performance; therefore, amendments cannot be executed on an expired grant agreement.

Amendment requests will be reviewed and approved at PTN's discretion. Subrecipients will be promptly notified of the result of their amendment request. Approved amendment requests shall be effective upon PTN's execution of the amended project grant agreement. PTN shall update internal project financial records and billing forms with PeopleSoft and eGrants, and Subrecipients are provided with an updated billing workbook by PTN.

On an annual basis, PTN will update the POP in TrAMS to reflect budget revisions and amendments.

Project Financial Review

The PTCs conduct quarterly financial monitoring of Subrecipients using the PTN-126 Quarterly Financial Monitoring form. The specific actions required of the PTC and the Subrecipient regarding project monitoring are outlined in 43 TAC 31.48.

The quarterly financial review entails a review of general project status, compliance with programmatic and financial requirements, and a detailed review of supporting documentation associated with costs reimbursed for the quarter. The PTCs shall review at least 20% of costs claimed for reimbursement during the quarter and associated supporting documentation to substantiate the costs reimbursed. The PTN-126 Quarterly Financial Monitoring form can be found on the [PTN Public Transportation Forms](#) webpage.

Annual Single Audit

For each year federal or state assistance was received, Subrecipients shall submit an annual audit certification to the state within sixty (60) days of the recipient's fiscal year end to indicate if federal or state grant expenditures met the thresholds for an annual audit.

Annual Audits of State, local government, and not-for-profit grant recipients

State, local government and not-for-profit grant recipients that:

- a. Expend \$750,000 or more of federal awards in a fiscal year are required to obtain an independent audit in accordance with 2 CFR Part 200
- b. Expend \$750,000 or more of state awards in a fiscal year are required to obtain an independent audit in accordance with the State of Texas Audit Circular

Annual Audits of For-Profit Grant Recipients

For-profit grant recipients that expend \$750,000 or more of federal awards in a fiscal year are required to obtain an independent program specific audit in accordance with 2 CFR Part 200.

Subrecipients must submit a copy of the annual audit certification form, and if required to obtain an audit, a copy of the annual audit, to the TxDOT Compliance Division and the PTN eGrants system. Subrecipients must also ensure annual audits are submitted to both TxDOT and the Federal Audit

Clearinghouse within thirty (30) days of receipt of the audit report, or nine (9) months after the Subrecipients fiscal year end date. TxDOT reserves the right to perform interim or project-level audits if there is evidence of a lack of fiscal and/or managerial capability on the part of the Subrecipient.

In addition, the State Auditor's Office reviews TxDOT's management of transportation programs as part of the department-wide annual audit.

Federal Financial Report (FFRs)

FFRs are submitted annually in TrAMS for each open grant by the Financial Manager in the Administration and Program Support Section. The purpose of the FFR is to provide a current, complete, and accurate financial picture of the grant. This report is submitted electronically in TrAMS and must be prepared on the accrual basis of accounting; that is, income is recorded when earned instead of when received, and expenses are recorded when incurred instead of when paid.

The Financial Manager will complete each FFR annually in accordance with the TrAMS User Guide for Recipient Organizations.

State administration funds will always reflect in Unobligated Balance of Federal Funds of the FFR and will never be reported as unliquidated obligations, except for those state administration funds that have been encumbered in a binding commitment (contract) with a third party.

Before submitting annual FFRs, the Financial Manager will schedule a coordination meeting with the Director, Administration and Program Support, and the Director, Program Services (to include Grant Program Managers) to review the FFRs and Milestone Progress Reports (MPRs) to ensure that data reflected in each are consistent.

PTN Financial Management team and Program Managers will meet close to the end of grant expiration to review grant balances, projects status, and unobligated funds. The purpose of the meeting will be to determine which projects that have been proposed for new grants may be applied to the program of projects for old grants with a TrAMS budget revision to spend down any remaining balances on the old grant. This process will be addressed at the monthly grant summary reports meetings, as appropriate. Budget revisions by ALI code and project will be performed by the Financial Management team in TrAMS once an agreement has been reached at the meeting. This process shall occur before any Subrecipient requests for reimbursement and should preclude ECHO reversals to spend down old grants.

Close-Out

After all project activities and deliverables associated with a Subrecipient's grant agreement have been completed and all eligible costs have been reimbursed by PTN, the project close-out process will begin. The project close-out process will verify that all activities or deliverables have been satisfactorily completed, requested funding has been reimbursed, all compliance requirements have been satisfactorily addressed, and any funds to be de-obligated have been identified. The Subrecipient will initiate the grant close-out process in eGrants, and the PTC will complete the grant close-out process indicating formal grant close-out. To advance the close-out process, the PTC may request full documentation with the final request for reimbursement.

PTN will begin grant close-out procedures of FTA funds within ninety days of having a zero balance on an FTA grant or when ECHO draws are complete. All closeout documents or reports, including MPR and FFR, will be submitted in TrAMS to FTA within the required ninety days following initiation of a grant closeout.

Technical Assistance

Subrecipients should direct technical assistance requests to their TxDOT PTC. PTN provides technical assistance to Subrecipients during semi-annual operators meeting, during periodic webinars, and during monitoring activities, such as quarterly financial reviews and compliance monitoring activities. PTN also provides technical assistance through documents such as the eGrants user manual, video tutorials, application guides, public transportation publications (<http://www.txdot.gov/inside-txdot/forms-publications/publications/public-transportation.html>), and monitoring forms (<http://www.txdot.gov/inside-txdot/forms-publications/forms/public-transportation.html>).

PTN also contracts with TTI to provide technical assistance to Subrecipients. PTN enters into an interagency contract (IAC) with TTI every two years, in the same cycle as the legislative biennium. The current IAC is for State FY 2020-2021. It expires on August 31, 2021. PTN coordinates the proposed notices to proceed (NTPs) with PTN Management Team and issues the agreed-upon NTPs to TTI. The current IAC allows up the support of PTN programs and includes four major tasks:

1. Technical Support for Statewide Coordination of Public Transportation
2. General Technical Assistance and Training for Performance Reporting and Formula Administration
3. Agency Assistance and Training
4. Workforce Development

Monthly RFRs are sent to PTN by TTI. The PTN Financial Management staff will determine fund source allocation and return to the PTN management for approval and payment in PeopleSoft.

In December 2019, PTN entered into a one-year contract with an outside vendor to provide technical support services to subrecipients. Services provided through this contract target three main areas:

1. Financial Management and Analysis
2. Capital Project Development
3. Operation and Service Analysis

Agreements

Master Grant Agreement

The PTN MGA is a document that states the federal and state rules, regulations, and requirements associated with receiving federal and state grant assistance through PTN. An applicant of PTN assistance that has been selected for funding award must execute an MGA before a PGA can be awarded. Executed MGAs are uploaded into the eGrants system for record retention.

Annual Certifications and Assurances

PTN will produce annual certifications and assurances based on the FTA fiscal year certifications and assurances and state certification requirements, which include a copy of the signed Internal Compliance Program Certification (TxDOT form 2433). Subrecipients will submit annual certifications and assurances to PTN by uploading them in the eGrants system.

The Annual Certifications and Assurances can be found on [PTN's Public Transportation Publications](#) webpage. The document title is: Current Fiscal Year Federal Transit Administration (FTA) and TxDOT Certifications and Assurance.

Internal Ethics and Compliance

Title 43 of the Texas Administrative Code requires specific state and federal funds recipients to adopt and enforce an internal ethics and compliance program that satisfies the requirements of 43 Texas Administrative Code §10.51. The TxDOT Compliance division may review and approve Subrecipients' internal ethics and compliance program plans prior to being eligible for funding.

Delegation of Signature Authority

PTN requires state and federal funds recipients to complete and upload a delegation of Signature Authority form in PTN's eGrants system. Subrecipients update the documents annually or during the course of the fiscal year, if needed. References are available on [PTN's Forms and Publications](#) webpage.

Project Grant Agreement

To receive a project grant agreement, an entity must apply for grant funding, receive a notice of award, and execute a MGA, certifications and assurances, and Internal Compliance Program Certification. Upon approval of the Texas Transportation Commission Minute Order and the FTA approval of the program of projects for each program, the PM will send a PGA to the Subrecipient for execution via the eGrants system.

PGAs may be created, reviewed, and executed within the PTN eGrants system. To receive a project grant agreement within the eGrants system an entity must apply for grant funding within the eGrants system. Program Managers and PTCs will review submitted applications. The PGA will be provided to the Subrecipient for review and execution within the eGrants system. After execution by the Subrecipient, the Subrecipient sends the PGA to the PTC for review and execution. PGAs within the eGrants system are effective upon execution by the PTC.

Procurement

Authority/Guidance

Federal Authority

Procurement standards must meet or exceed the requirements of the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards (2 CFR Part 200).

The requirements for the pre-award and post-delivery audits of vehicles are contained in 49 CFR Part 663.

The requirements for the testing of bus models are contained in 49 CFR Part 665.

The requirements for the Disadvantaged Business Enterprises Program (DBE) as defined by the U.S.DOT are found in 49 CFR Part 26.

49 CFR Part 28 relates to nondiscrimination on the basis of handicap in U.S. DOT programs and focuses on facilities. Requirements for transportation services for persons with disabilities are contained in 49 CFR Part 37.

All vehicles shall comply with the vehicle accessibility guidelines contained in 36 CFR Part 1192.

Procedures for procuring architectural and engineering services are found in 40 USC Chapter 10, Subchapter VI, known as the Brooks Architecture-Engineering Act.

Acquisition of real property is outside of the scope of FTA Circular 4220.1F (see FTA guidance) and such acquisitions shall comply with the uniform relocation and real property acquisition standards in 49 CFR Part 24.

State Authority

For a description of TxDOT's rules regarding standard federal requirements, see 43 TACS 31.42.

For a description of TxDOT's rules regarding contracting and procurement requirements specific to public transit, see 43 TAC 31.43 31.43 and 43 TAC 31.44 31.44.

See 43 TAC Sections 9.200 through 9.242 for the department's Disadvantaged Business Enterprise rules. Refer to 43 TAC 9.242 for complaint procedures.

Other Subrecipient procurement requirements are contained in the Government Code 2155, Subchapter B and Local Government Code Chapter 271.

The Uniform Grant Management Standards for the State of Texas (UGMS) apply to all state-managed grant programs.

Federal Transit Administration Guidance

FTA guidance for using third party contracts is found in FTA Circular 4220.1F, Third Party Contracting Guidance. Guidelines and management procedures for capital purchases are covered in FTA Circular 5010.1E, Award Management Requirements. Chapter IV addresses management of real property, equipment and supplies, and guidance on using property as non-federal match.

Individual program circulars include a section on procurement. A complete listing of FTA circulars is available online at FTA's website. The FTA Best Practices Procurement Manual provides suggestions and sample documents covering every phase of procurement. Another helpful source of information is the procurement section of FTA's Comprehensive Review Guide.

State Guidance

The State of Texas Procurement and Contract Management Guide provides practical suggestions and practices to make contract decisions that are in the best interest of the state.

Overview

Introduction

Transit agencies are required to have processes in place to ensure procurement activities follow all applicable laws and regulations and promote free and open competition.

The procurement section of FTA's Comprehensive Review Guide provides a general overview of procurement standards and potential pitfalls in the process.

All procurement documents are public information, and Subrecipients must retain them for at least three years after the close of the contract. In the case of the procurement of capital assets, documents are retained for the life of the asset plus four years.

Department Role

PTN monitors Subrecipient procurement and contracting using the PTN-130 Vendor Consolidated Certification Form, PTN-124 Procurement Monitoring Form, the PTN-126 Quarterly Monitoring Form, and the PTN-129 5310, 5311, and 5339 Compliance Review Form. PTN monitoring forms are located on [PTN's publications forms](#) web page.

When FTA funding is used directly by the department to procure services, the Fleet Planner will be notified by the manager or program manager who is initiating the project involving FTA funds. The Fleet Planner will ensure all appropriate clauses, certifications, and assurances are associated with the purchase order/contract, and that the procurement otherwise meets FTA requirements.

Procurement Process

The procurement process has three phases:

1. Procurement planning and solicitation
2. Award / contracting activities
3. Delivery

Procurement Planning and Solicitation

Before a Subrecipient begins a specific procurement process, it must have a procurement program in place that includes:

1. Procurement procedures that reflect applicable federal, state, and local laws and regulations
2. Contract administration that ensures contractor performance in accordance with terms, conditions, and specifications of the contracts or purchase orders
3. Written code or standards of conduct
4. Review procedures that avoid purchase of unnecessary or duplicative items

5. Written procurement history record
6. Written procedures to handle and resolve protests
7. Written procurement procedures
8. Use of intergovernmental agreements, federal excess and surplus property, and value engineering wherever possible
9. Rolling stock/replacement parts procurements that do not exceed five years inclusive of options
10. Making an independent cost estimate (ICE) prior to solicitation
11. Performing cost or price analysis prior to entering into a contract or issuing a purchase order

Procurement transactions must be conducted in a manner that encourages full and open competition. Specific procurement procedures based on the ICE are identified in the table below. Typical methods of formal solicitation are invitation for bids (IFB), request for proposals (RFP), and request for statements of qualification (RFQ), and these are briefly described below. FTA Circular 4220.1F Third Party Contracting Guidance provides complete descriptions of these processes and provides other methods that may be used in certain cases, such as design-build type projects.

Invitation for Bids

The IFB method is used when the contractor can be selected principally on price. It is most commonly used when selecting a commodity supplier who can meet a realistic, complete specification, but it may also be used to procure services when, again, the agency believes it can select a contractor principally on price. As in all FTA-supported awards, the transit agency may only select responsible contractors who are responsive to the solicitation. In an IFB context, this means the agency evaluates all bids to determine which bidders are responsible against some standard and which bids have responded appropriately to the terms described in the solicitation. All responsible bidders submitting responsive bids are then considered equal, and selection is made based on price.

Due to the prohibition against arbitrary actions, using “best value” provisions in connection with an IFB process is strongly discouraged. If the transit agency wishes to base its award on factors other than costs, an RFP process is appropriate.

Request for Proposals

The RFP method is used when the contractor will be selected on predominantly non-cost factors. It is most commonly used when selecting a contractor for services, but it may also be used to select a commodity supplier. An RFP is most appropriate when selecting a commodity supplier when the specification is very basic or incomplete. In an RFP process, the agency will establish scoring criteria that measure the responsibility of proposers and the responsiveness of their proposals. The scoring criteria must be published, indicating the selection factors in order of priority. Cost should be

a factor, but it is bad form in an RFP process to make cost the top selection factor, as that would lend itself better to an IFB process.

Request for Statements of Qualifications

Procurement of architectural and engineering (A&E) services requires a qualifications-based, procedure (i.e., Brooks Act procedures). Services subject to this requirement may include preliminary engineering, design, architectural, engineering, and related services that lead to construction activity. If the work is not expected to lead to construction, the solicitation should take the form of an RFP instead of an RFQ, even if some or all of the offerors are expected to be architects or engineers.

Prior to selecting an architect or engineer, the RFQ should be advertised in a publication with national circulation. Alternatively, a transit agency could compile a central bidders list from discussions with other agencies that have awarded contracts for similar work.

Upon receipt of various statements of qualifications, the offers are ranked, and price negotiations are initiated with the best-scoring offeror. If negotiations with the first offeror are unsuccessful, negotiations may begin with the next ranked candidate.

Unlike the procurement of any other service or the procurement of any commodity, a local preference may be exercised in an RFQ process without violating the FTA prohibition against geographical preference.

Vehicle Accessibility

Vehicles purchased with TxDOT grant funds are required to be ADA accessible to persons with disabilities. A transit agency may apply for a waiver, using the PTN 116 form, if it can demonstrate service equivalency.

Oversight and Approval of Solicitations

The Subrecipient shall furnish the department notice of the intent to issue a formal solicitation when the amount of the independent cost estimate meets or exceeds the threshold level in the Government Code or Local Government Code (or \$25,000 for those entities not covered by the Government Code or Local Government Code) requiring formal competitive procurement. See the table below “Procurement Procedure Based on Independent Cost Estimate.” When a transit agency elects to purchase goods or services through the state contract ([Texas Smart Buy](#)), also known as “the co-op,” the agency is not required to issue a solicitation, as the co-op conducts the solicitation.

Procurement Procedure Based on Independent Cost Estimate

See FTA Circular 4220.1F for definitions

Exceptions allowed when a transit agency purchases through the state contract (co-op).

A transit agency may elect to follow a more stringent process than described below.

Formal solicitation documents (invitations for bids / requests for proposals / requests for statements of qualifications) must be reviewed and approved by TxDOT.

Independent Cost Estimate	Agency Covered by Local Government Code	Agency Not Covered by Local Government Code
\$3,000 or less	Micro-Purchase	Micro-Purchase
\$3,001 - \$24,999	Small Purchase Procedure	Small Purchase Procedure
\$25,000 - \$50,000	Small Purchase Procedure	Formal Solicitation Process
Over \$50,000	Formal Solicitation Process	Formal Solicitation Process

Note: State laws and rules affect the thresholds described above. The threshold for formal solicitation processes is less than prescribed by FTA and is unaffected by FAST Act and the Office of Management and Budget memorandum M-18-18 dated June 20, 2018.

Initiation of a Written Procurement History

The Subrecipient must develop a written procurement history, including the following information:

1. The ICE
2. The rationale the Subrecipient used for the method of procurement (such as IFB, RFP or RFQ)
3. The rationale the Subrecipient used for the planned contract type
4. The methodology that will be used to select a contractor

Planning for Joint Procurements

A joint procurement occurs when two or more transit agencies collaborate using the same specifications, solicitation process, and terms and conditions to purchase goods or services through the same procurement process. While some tasks are shared among transit agencies throughout the procurement process, one of the agencies must be designated to take the lead.

The procurement procedure used by the lead agency cannot violate another participating agency's own procurement procedures. Therefore, it is important that all relevant procurement information be shared among the participants. For vehicle purchases, this includes but is not limited to:

1. Vehicle options
2. Floor plans

3. Agency tax status
4. Delivery locations
5. Fleet identification numbers for fleet discounts

In addition to the above, all participants in a joint procurement must maintain a written procurement history and individually meet all federal, state, and local requirements. The PTC for the lead transit agency is responsible for creating and maintaining a procurement record in Public Transportation Management System (PTMS) that tracks progress and lists participants.

Solicitations for Rolling Stock and Manufactured Goods

Requests for offers to supply rolling stock, steel, iron, or manufactured products shall provide for receipt of certifications from offerors indicating compliance with Buy America or qualification for exception to Buy America requirements.

Award / Contracting

Subrecipients shall furnish the department notice of the intent to award a purchase order or contract to any individuals or organizations not a part of the Subrecipient's organization when the amount of the purchase meets or exceeds the threshold level in the Government Code or Local Government Code (or \$25,000 for those entities not covered by the Government Code or Local Government Code) requiring formal competitive procurement. The department monitoring thresholds are the same as described for formal solicitation processes in the table "Procurement Procedure Based on Independent Cost Estimate." Purchases shall not be split out to stay below the threshold amount. No subcontract will relieve the Subrecipient of the Subrecipient's legal responsibilities to the department. All subcontracts in excess of \$25,000 shall contain the following required provisions from the pro forma grant contract between the department and the Subrecipient:

1. Financial management
2. Civil rights
3. Disadvantaged business enterprise program requirements

Contracts shall contain all required provisions required by state and federal law. These requirements flow down to all third-party contractors and their contracts at every tier. All relevant clauses contained in the transit agency's most current grant agreement with TxDOT must be copied into a transit agency's subcontracts. 43 TAC 31.44(c)(1) and 2 CFR Part 200 apply to the subcontract. Subrecipients must ensure that only eligible transit vehicle manufacturers (TVM) may bid on FTA-assisted transit vehicle procurements. FTA maintains a current list of eligible TVMs at: <https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/eligible-transit-vehicle-manufacturers>.

Subrecipients shall only enter into contracts with responsible contractors who are not debarred or suspended by the state or federal government. Information on debarred and suspended

businesses may be obtained through the links found in the PTN-124 (procurement monitoring) form.

Transit agencies must be prepared to monitor the successful contractor for compliance with these requirements.

Price Analysis

When an agency makes a competitive vendor selection where multiple bids were received and there is no requirement to evaluate specific elements of cost, the agency conducts a price analysis by comparing the price of the low bid or best to the ICE, the other offers, and any other price information the transit agency may have, such as internal, historical information. The price analysis will show the consistency between the estimated cost and the proposed price. Any significant discrepancy must be explained.

Cost Analysis

When there is no price competition (as in the case of a sole source procurement, or when only one bid or proposal is received) or the procurement requires a submission of separate cost elements (as in the case of most requests for proposals, such as construction projects, transit services, professional consulting, etc.), the agency conducts a cost analysis by comparing the overall cost of the best offer to the independent cost estimate, along with an analysis of each element of cost presented in the offer. The cost analysis will include profit, and the agency must negotiate profit as a separate element of the price.

The FTA [Best Practices Procurement Manual & Lessons Learned Manual](#) has additional information on how to conduct these analyses.

Additionally, the solicitation document and resulting contract should include “performance measures” by which the transit agency can judge the contractor’s fulfillment of the contract requirements. Such contracts often include clauses for renewal. Sound business practice dictates that before exercising such options, transit agencies should consider the contractor’s performance and if the terms, conditions, and price are still favorable to the agency.

Pre-Award Audit and Buy America

All revenue rolling stock purchases will be supported by a pre-award audit. Audit documentation descriptions and forms may be found in the PTN-124 form. The audit is a self-certification by the transit agency that includes:

1. Purchaser’s Certification
2. Buy America Certification

3. FMVSS Certification

Offers to supply steel, iron, or manufactured goods shall be accompanied by a certificate from the offeror that it will supply products that comply with Buy America or that it may qualify for an exception to the Buy America requirements.

FAST Act provides for an increased domestic content requirement for rolling stock over the life of the Act; FY16/17: 60%, FY18/19: 65%, and FY20 and beyond: 70%. The Act also raises the threshold for public interest waiver to \$150,000. This change and others enacted by the super circular are reflected in the PTN-130 monitoring form.

Development of the Written Procurement History

In addition to the other significant contract and award actions taken in this procurement phase, the following will be added to the transit agency's written procurement history:

1. The reasons the bidder or proposer was selected
2. The methodology used to determine that the contract price is fair and reasonable
3. Any negotiation activity, as appropriate

Delivery

TxDOT oversight is triggered in the delivery phase when the request for reimbursement is submitted.

The timeliness and adequacy of the delivery of commodities or services is documented in this final phase of development of the written procurement history. In addition to the requirement to have a complete written procurement history, this information may be used for future reference, for example if considering the extension of optional quantities or the term (timeline) of a contract. Content of the documentation should address, for example, the degree to which:

1. Commodities or services were delivered to specification
2. Contractor responded to requests to correct any deficiencies
3. Contractor honored warranty commitments
4. Contractor performed services in the project scope

Post-Delivery Audit

When revenue service vehicles are purchased with FTA funding, the agency must conduct a post-delivery audit. It addresses the same areas as the pre-award audit, confirming that the vehicles delivered meet:

1. Specifications (Purchaser's Certification)
2. Buy America

3. FMVSS

In certain cases, the documentation that the vehicles were delivered to specification (purchaser's certification) must be supported by documentation of a factory inspection. Special preparations must be made when purchasing more than ten (10) vehicles that will be placed into service in an urban area to ensure the post-delivery audit will be properly completed, or in the case of rural transit vehicles, when purchasing more than twenty (20) vehicles. In these cases, a resident inspector (other than an agent or employee of the manufacturer) must be at the manufacturing site throughout the period of manufacture to monitor the vehicle construction process and to complete a report that supports the purchaser's certification portion of the post-delivery audit.

Other requirements

When revenue service vehicles are purchased with FTA funding, the agency must receive a copy of the bus testing (Altoona) report prior to issuing payment for the vehicle.

When a vehicle is purchased with support of FTA funds administered by the department, or with state funds (including TDCs), Subrecipients shall record a lien in the title application reflecting TxDOT as lienholder.

The transit agency must secure a lien or deed of trust in favor of TxDOT on any real property purchased after January 2002, with funds provided by the department. Any alternative form of recording the department's interest must be approved in writing by the PTN division director. Such real property must be included in PTMS.

Any equipment purchased with grant funds with a unit cost of \$5,000 or more must be in the PTMS and inventoried in accordance with 43 TAC 31.50.

PTN Subrecipients purchasing goods or services should review the Disadvantaged Business Enterprise requirements found later in this chapter.

Real Property / Construction

Special requirements pertain to the purchase of real property. FTA Circular 5010.1E Grant Management Guidelines covers the acquisition of real property. TxDOT is the designated recipient of funds, and all direct contact with FTA flows through TxDOT, not the transit agency, as stated in the FTA documents).

Appraisals

To establish the value of the property, FTA requires one appraisal and a review appraisal, which TxDOT may be able to perform. FTA's prior approval is required when the transit agency's

recommended offer of just compensation exceeds \$500,000, or when a property appraised at \$500,000 or more must be condemned. This process must be followed to purchase real property using FTA funds. For guidance on using property as local match, see FTA Circular 5010.1E.

There is an alternate procedure for a transit agency with a fully staffed real estate department that permits higher dollar thresholds before FTA prior concurrence is needed. To do this, an FTA real estate specialist must review and approve the processes used in acquiring and clearing real estate. Transit agencies may request a review through TxDOT. Refer to [FTA C 5010.1E](#).

Environmental Factors

There are also environmental factors involved in the procurement of land or facilities. Before an agency can purchase property, FTA must approve the documentation in support of a categorical exclusion, environmental assessment, or environmental impact statement.

Purchase and Titling

The TxDOT Subrecipient must be the recorded owner of real property purchased with funds provided by the department. Subrecipients must secure a lien or deed of trust in favor of TxDOT on any real property purchased with federal or state assistance.

TxDOT will provide technical assistance for all real estate transactions.

Procurement of Architectural and Engineering Services

See the Procurement section for information related to procurement of A&E services. The Best Practices Procurement Manual (Chapter 6.5) provides excellent and detailed information about retaining A&E firms. Additionally, TxDOT can offer its expertise in this area to a requesting transit agency.

Construction

This subheading includes:

1. Peer reviews
2. Pre-construction meetings
3. Facility accessibility

Peer Reviews

In consultation with FTA, TxDOT will determine if a facility project will require a peer review. If the department determines that a peer review is required, a peer review meeting at the 30-50% design stage must be scheduled. The project owner should notify the TxDOT at a minimum of 30 days in advance of a peer review meeting.

A peer review is an on-site exchange, facilitated by the transit agency doing the facility project, which includes a group of the agency's fellow transit system professionals who have built and operate similar facilities. The experience of the peer, rather than the number of peers, is the important element. The peers included in the review should be supplied with project plans and information a minimum of two weeks prior to the review meeting. A meeting facilitator, other than the project manager, is strongly encouraged. Costs incurred for the performance of the peer review are eligible for federal participation and should be broken out in the detailed construction budget.

The intent of the peer review is to assure an efficient design in terms of operational concerns. An experienced peer may note building limitations, may recommend design features, and may prevent design and construction errors and costly mistakes. For example, when an agency proposed to install a vehicle maintenance lift inside a facility, the peer review recommended the incorporation of a maintenance pit instead, as the overhead clearance inside the facility prohibited the use of a vehicle maintenance lift.

Pre-Construction Meeting

A pre-construction meeting must be held between the transit agency, the construction company, and the architect or overseer of the construction phase. PTCs will attend the pre-construction meeting. The agenda for the meeting shall include, at a minimum:

1. Construction milestones
2. Billing processes and
3. Contingencies

Transportation Facility Accessibility

Public entities constructing new facilities or altering existing facilities that include the provision of public transportation service must make the facility or alterations readily accessible to and useable by individuals with disabilities. The facility accessibility regulations are contained in (49 CFR Part 37). Appendix D to Part 37-Construction and Interpretation of provisions contain an explanation of the regulations.

Private entities must comply with the regulations of the Department of Justice and DOT that implement Title III of the Americans with Disabilities Act in constructing and altering transit facilities (49 CFR Part 28).

Asset Management

Authority / Guidance

Federal Authority

Administrative requirements for grants and cooperative agreements are contained in 2 CFR Part 200.

The federal authorization for maintenance of ADA equipment is found in 49 CFR 37.161, 49 U.S.C. 5326 – Transit Asset Management

49 CFR 625 – Transit Asset Management

49 U.S.C. 5334(h) lists the federal criteria for transferring assets out of the transit program.

FTA Circular 5010.1E Award Management Requirements

State Authority

Texas Transportation Code, Chapter 455 defines the TxDOT's powers and duties regarding mass transportation. The property management standards are contained in Title 43, TAC, Chapter 31, Subchapter E.

The Texas Department of Motor Vehicles (DMV) rules (43 TAC 218.16) and the Texas Tort Claims Act (Civil Practices and Remedies Code, Chapter 101) set minimum insurance requirements for vehicles. Transit agencies that receive an exemption from DMV are still required to maintain a proper level of insurance coverage through a third party or self-insurance.

Under the authority of Chapter 783 of the Texas Government Code, the Office of the Governor established UGMS for state agencies. The Texas Comptroller of Public Accounts is tasked with the charge of the UGMS. The UGMS are designed to promote the efficient use of public funds by providing awarding agencies and grantees a standardized set of financial management procedures and definitions, by requiring consistency among grantor agencies in their dealings with grantees, and by ensuring accountability for the expenditure of public funds. UGMS procedures apply in areas not covered by the Common Rule.

Federal Transit Administration (FTA) Guidance

Property management and continuing control are part of FTA Circular 5010.1E Award Management Requirements.

Individual program circulars also have sections on maintenance and continuing control. A complete listing of FTA circulars is available online.

State Guidance

[Sample maintenance plans](#) from transit agencies are available on the PNT's publications web page.

Overview

TxDOT oversees the public investment in vehicles, facilities, real property and equipment purchased or operated with state or federal funds administered by the department. As necessary, PTN will coordinate compliance issues with the General Counsel Division.

Transit Asset Management (TAM) Planning and Maintenance

Each recipient and Subrecipient must develop a transit asset management plan addressing all real property and equipment. Basic Subrecipient responsibilities of the plan include the following:

1. Developing a plan that covers rolling stock, equipment, infrastructure, and facilities leased or owned by the agency. At a minimum, the plan shall include:
2.
 - a. An inventory of the number and type of capital assets that a provider owns, except equipment under \$50,000
 - b. Condition assessments of those inventoried assets for which a provider has direct capital responsibility
 - c. Decisions support tools or analytical processes that a provider uses to estimate capital investment needs over time
 - d. Investment prioritization that identifies a provider's programs and projects to improve or manage a state of good repair for capital assets

TxDOT finalized PTN's Transit Asset Management Group Sponsored Plan in September 2018. The next update to the plan will be completed prior to September 2022.

Recipients and Subrecipients shall also develop a maintenance program that compliments their assets management plan. TxDOT has the authority to direct the transit agency to transfer or dispose of vehicles, property or equipment that is not maintained properly. Basic elements of the maintenance program include the following:

1. Written plan(s), which may separately address asset management and maintenance, or may combine them, including an asset inventory and capital plan with a minimum 4-year span.
2. Preventive maintenance inspections and scheduled services, which shall include at a minimum the manufacturers' recommended servicing schedule
3. Provisions for accessible equipment
4. Management of maintenance resources and assets, including "decision support tools" which relate to maintenance and / or asset management performance measures.

Performance measures shall be reported by Subrecipients through the PTN-128 statistics reporting process. Recipients and Subrecipients will report transit asset management performance targets to the National Transit Database (NTD). Recipients and Subrecipients must establish performance targets depending on asset class.

5. Warranty compliance and recovery
6. Standards for maintenance subcontractors

TAM Targets

15% (or less) of the rolling stock and equipment should be operating beyond the useful life benchmarks for age established by TxDOT, which is two years beyond each vehicle's Altoona (bus testing) or similar standard for lifespan 15% (or less) of facilities should be operated in a condition of 2.0 or lower on FTA's Transit Economics Requirements Model (TERM) scale.

TxDOT documents that a transit agency has and is following an adequate asset management/maintenance program on the compliance review form, PTN-129 Compliance Review.

Inventory, Control Mechanisms, and Insurance

Inventory

The PTMS is an information database for transit agency contact data, security and safety information, and fleet and facility inventory.

PTMS:

1. Enables TxDOT to fulfill its federal and state continuing control mandates
2. Provides vehicle information for developing vehicle capital replacement program needs
3. Facilitates the department's response to inquiries on capital assets
4. Is routinely used for legislative inquiries, planning, inventory, and grant management purposes

Real property and equipment (with unit cost over \$5,000) purchased with support of TxDOT funding, all vehicles used in transit service, and all rural transit facilities will be maintained in PTMS until they are no longer used for public transportation purposes and properly disposed.

The inventory activity required by 43 TAC 31.50(c) is an important method for ensuring continuing control of TxDOT's interest in vehicles, real property, facilities, and equipment. The TAC calls for two types of inventory activity. One is an update of mileage and condition of vehicles, and an update of condition of facilities if needed. This may be accomplished by the transit agency sending a current list of transit assets to TxDOT that includes an update of mileage and condition. Alternately, the PTC can send an inventory report or fleet condition report from PTMS to the transit agency, requesting an update of the list. The PTC reconciles the agency submission with existing information and

updates the records accordingly. This is commonly referred to as the “annual inventory” or “annual update” and the PTC documents completion by printing-out the transit agency’s inventory report, labeling it “annual update” or “annual inventory” and signing or initialing it. The inventory report is automatically date-stamped by PTMS.

In addition to updating the mileage and condition, other inventory activity requires TxDOT staff to physically view all inventoried assets to ascertain their condition, in addition to updating the mileage and condition. At this time, due to COVID-19, inventory may be conducted in a virtual setting. Again, reconciliation with existing information occurs, and records are updated in PTMS. This is commonly referred to as the “physical inventory,” and the PTC documents completion by printing-out the transit agency’s inventory report, labeling it “physical inventory” and signing or initialing it.

The inventories occur in an alternating cycle. An annual update occurs one year, the physical inventory the next, and so forth. PTCs maintain their own schedules in this regard.

Control Mechanisms

The Subrecipient shall not execute any lease, mortgage, lien or other legal document that adversely affects the federal or state interest in project facilities or equipment or impairs the government’s continuing control of the asset. To prevent unauthorized use as collateral, sale or transfer of vehicles, TxDOT uses one of two asset control mechanisms. An older method placed a restraining mark or “flag” on the vehicle title. More recently, vehicle titles show TxDOT as a lienholder. The Vehicle Titles and Registration Division (VTR) was transferred to DMV effective November 1, 2009.

1. *Restraint Marks (Flags)*. Prior to January 2002, at the time the transit agency titled a vehicle purchased with department funds, VTR placed a restraining mark on the title. This “flag” signaled that PTN must approve the sale of the vehicle before VTR processed a change of owner.
2. *Vehicle Liens*. In January 2002, the department moved to a different asset control mechanism. Now, at the time a vehicle is titled, TxDOT is listed as a lienholder, and titles are kept in the division headquarters office.

The transit agency must secure a deed of trust in favor of TxDOT on any real property purchased after January 2002, with funds provided by the department. Similarly, a deed of trust is secured in favor of TxDOT when grant funds are used to make improvements to facilities / real property. Any alternative form of recording the department’s interest must be approved in writing by the division director. Real property must be included in PTMS.

Any equipment purchased with grant funds with a unit cost of \$5,000 or more must be in the PTMS and inventoried in accordance with 43 TAC 31.50.

Insurance

TxDOT documents that a transit agency has adequate insurance on vehicles, real property, and other transit assets as part of the compliance review documented on the PTN-129 Compliance Review form. Insurance on new vehicles is checked as part of procurement monitoring through the PTN-124 form.

Transit agencies shall maintain the minimum insurance on all transit vehicles required by Texas Department of Motor Vehicles (43 TAC 218.16) and the Texas Tort Claims Act (Civil Practices and Remedies Code Chapter 101). Transit agencies that have been granted an exemption by the Texas Department of Motor Vehicles are still required to maintain a proper level of insurance coverage through a third-party provider or self-insurance.

Agencies offering cross-border or interstate service must ensure that insurance is in force at the appropriate levels.

The fleet must also be insured for the replacement value of all vehicles and equipment. PTCs will monitor agencies to confirm that all vehicles purchased with FTA funds are properly insured. The PTN Compliance Specialist will verify Subrecipient insurance documents are current in the eGrants system. The department has the authority to order a vehicle parked if it is improperly insured.

Transit agencies should obtain sufficient levels of insurance to protect and replace real property and other assets purchased with state or federal funds through the department. TxDOT will monitor insurance policies annually to verify that federally funded facilities and property are properly insured.

Asset Disposition and Transfer

Vehicles

If a vehicle is no longer used for public transportation, it is to be disposed of immediately. Vehicles are not to be retained by Subrecipients for spare parts or use by non-public transportation operations.

Once removed from service, vehicles are formally disposed of through sale (including salvage sale), or transfer to another transit service provider in accordance with requirements outlined in 43 TAC 31.57 and the procedures described on [TxDOT's Vehicle Disposition Process](#).

Individuals associated with the transit agency may not personally profit from the sale or salvage of state or federally funded vehicles. Proceeds from vehicle sale and insurance proceeds shall be retained by the transit agency and reinvested back into the transit program.

Vehicles may be transferred to other transit agencies with TxDOT's approval, and TxDOT may direct the transfer of Subrecipient vehicles if the vehicles are not being used adequately in support of public transportation purposes. A priority is to keep any transferred vehicle within the funding program for which it was initially procured. To facilitate the transfer process, prevent duplication, and record all information to support disposition and transfer decisions, vehicles must be transferred within PTMS.

Real Property

All disposition of real property purchased with federal funds involves consultation between TxDOT and the FTA. FTA Circular 5010.1E provides guidance.

If the transit agency determines that real property is no longer needed for the approved project, TxDOT may approve the use of the property for other purposes. If the transit agency is disposing of one property and purchasing another, the department may permit the net proceeds from the sale of one property to offset the cost of the other.

TxDOT handles disposition of real property on a case-by-case basis.

Other Equipment

The general principles guiding the disposition of vehicles also apply to equipment valued at \$5,000 or more. Disposition instructions for equipment are handled on a case-by-case basis.

Civil Rights

Disadvantaged Business Enterprise

PTN DBE Program

TxDOT CIV, in coordination with other areas of the department, develops a TxDOT DBE Program. The TXDOT DBE Program is submitted to FHWA for review and concurrence. Once FHWA concurrence is received, PTN provides FTA a copy of the TXDOT DBE Program via email to the Region VI Regional Civil Rights Officer and through the FTA TrAMS system.

PTN Overall DBE Goal

PTN, with the assistance of CIV, develops a three-year Overall DBE Goal to set DBE attainment for PTN and Subrecipient funds expended on procurable opportunities. The Overall DBE Goal is established by reviewing the amount of funding estimated to be expended by both PTN and Subrecipients, and the proportion of ready, willing, and able DBEs compared to the general business population. Once the baseline percentage of DBE use is determined, a correcting

calculation is applied to remove any years of past DBE attainment that may skew the DBE Goal. The resulting number is the proposed Overall DBE Goal. The [PTN Overall DBE Goal](#) may be reviewed on the TxDOT website.

Means to Meet Overall Goal:

PTN will meet the maximum feasible amount of DBE attainment using race-neutral means. If it is determined, either through actual or projected overall DBE attainment, that PTN may not achieve the annual FTA overall DBE goal, then PTN, at its discretion, may require race-conscious means to ensure the annual FTA overall DBE goal is met. Race-conscious means may include, but not be limited to, the inclusion of contract specific goals. PTN shall have final decision-making authority regarding the establishment of Subrecipient contract specific goals.

As of January 2020, PTN requires Subrecipients with major facility projects (those of \$1,000,000 or more) to set contract specific goals (race-conscious). When contract specific goals are established, the transit provider shall only award a contract to a bidder or offeror who makes adequate good faith efforts to meet the contract specific goal. Bidder or offeror good faith effort requirements shall be satisfied by the bidder or offeror:

1. Documenting that it has obtained enough DBE participation to meet the goal or
2. Documenting that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so.

DBE Solicitation and Contract Clauses

Subrecipients must ensure all required DBE-related clauses as specified in 49 CFR Part 26 are included within solicitations and resulting contracts. These clauses include non-discrimination assurances, prompt payment and retainage mechanisms, DBE-related contract breach, and remedy clauses.

For more information on required procurement requirements and clauses see the [PTN-130 Vendor Consolidated Certification Form](#) located on the TxDOT website.

PTN monitors Subrecipients' procurements, contracting, and project oversight including commercially useful function reviews (CUFs), DBE substitution and termination procedures, and DBE attainment reports. Subrecipients may use their own procedures to review contracting records and monitor worksites, and such monitoring may be completed in conjunction with other monitoring activities. If needed, PTN also has sample DBE forms and procedures available for Subrecipients to use when administering projects.

For more information on procurement monitoring and DBE project oversight, please see the [PTN-124 Procurement Monitoring Form](#) and [DBE Project Administration Guide](#) on the TxDOT website.

DBE Reporting

Subrecipients receiving FTA pass-through assistance are required to submit biennial DBE reports to PTN. Subrecipients must submit their DBE report in the PTN eGrants system. Through electronic signature of the DBE Report form, Subrecipients are certifying that DBEs listed on the form completed the work in amounts stated on the form. In addition, Subrecipients are required to state the amount of FTA assistance spent on DBEs and non-DBEs with each request for reimbursement.

Agencies with DBE project specific (construction) goals must submit monthly DBE progress reports. The reports will contain information about the dollar amount spent, total DBE dollars spent, total amount spent that counts toward DBE goals, non-DBE dollars spent, and any additional information required by PTN and FTA.

Agencies with DBE project specific (construction) goals must complete and submit a CUF form to certify that work committed to DBEs is actually being performed by the DBEs. This review must be performed a minimum of one time during the contract period for each DBE. The [CUF form](#) is located on the TxDOT website. See DBE Commercially Useful Function Monitoring Review form. The form must be completed within thirty (30) days of the DBE starting the work. The review of this form demonstrates the oversight of the DBE as required by 49 CFR 26.55(c). The form must be signed and dated by the reviewer and submitted to the PTC shortly after the completion of the form. The PTC will forward a copy of the form to the PTN Compliance Specialist within the following month.

DBE Assistance to Subrecipients

PTN provides DBE assistance to Subrecipients through PTCs who are located within TxDOT districts. The PTN Compliance Specialist, with subject matter expertise for DBE Subrecipient oversight, provides assistance to PTCs and ensures PTN's FTA DBE requirements, such as Goal Methodology preparation and DBE reporting, are met. CIV also serves as a resource.

PTCs and the PTN Compliance Specialist assist Subrecipients to meet FTA DBE compliance requirements. PTN provides periodic DBE training at semi-annual operator meetings, through webinars, and when requested by Subrecipients.

Transit Vehicle Manufacturer

PTN collects TVM data and reports such data to FTA within thirty (30) days of Subrecipient transit vehicle purchase. Date of award, name of manufacturer, and amount will be reported to FTA.

TxDOT is actively seeking qualified DBEs to participate in federally funded activities. Firms interested in being certified and added to TxDOT's directory for public transportation programs should contact:

Civil Rights Division
Texas Department of Transportation
Attention: DBE Officer
125 E. 11th Street
Austin, Texas 78701-2483

Title VI of the 1964 Civil Rights Act

Section 601 of Title VI of the Civil Rights Act of 1964 states the following:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

These procedures describe the requirements that all FTA recipients must follow to ensure that their programs, policies, and activities comply with U. S. DOT Title VI regulations (in accordance with FTA Circular 4702.1B, Title VI Requirements and Guidelines for Federal Transit Administration Recipients, October 1, 2012, 49 CFR 21.7(a), 49 CFR 21.9(b)) and the TxDOT Civil Rights Programs.

PTN Title VI Program and Language Assistance Plan

PTN's current Title VI Program provides guidance to Subrecipients. The [PTN Title VI Program](#), includes the Language Assistance Plan and is posted on PTN's website.

PTN procedures for assuring equity of distribution of benefits among groups within the State, as required by Title VI of the Civil Rights Act, are included in the current FTA-approved PTN Title VI Program. The PTN Title VI Program is available on the TxDOT website, section: Subrecipient's Title VI Programs.

All Subrecipients that receive FTA grant funds through the PTN are required to comply with the FTA and TxDOT Title VI programs. These include:

1. Nondiscrimination clauses in the TxDOT MGA,
2. Annual Certifications and Assurances,
3. Title VI assurances and a review of existing Subrecipient Title VI program components
4. PTN reviews Subrecipient Title VI plans for compliance with the Title VI Program and FTA C. 4702.1B using a Title VI Plan Review Checklist. In addition to the requirements in Chapter III:

- a. All fixed route transit providers must include requirements specified in Chapter IV for service standards and policies.
- b. All transit providers that operate 50 or more fixed route vehicles in peak service and are located in an Urbanized Area (UZA) of 200,000 or more people must include all requirements specified in Chapter IV.

Subrecipients that receive both funding directly from FTA and pass-through funding from PTN are required to submit their Title VI plan, including a screenshot of the TrAMS submission page to PTN through the eGrants system. PTN will accept FTA's plan review and approval. Subrecipients must submit their Title VI Program in the PTN eGrants system.

Complaint Process

PTN has a Title VI complaint process in the division Title VI Program, a document required by FTA. Individuals or agencies that feel a Subrecipient is not in compliance with civil rights requirements may file a complaint with the Subrecipient. Customers who remain unsatisfied after receiving the agency's response may file their complaint with a copy of the agency's answer with the:

1. Appropriate PTC in TxDOT's District Offices
2. PTN by emailing the PTN_ProgramMgmt@txdot.gov

TxDOT Office of Civil Rights, using the electronic complaint form, found at <http://www.txdot.gov/inside-txdot/contact-us/complaints.html>. Choose the Customer Complaint System web link in the middle of the page, or FTA, using the [Title VI Complaint Form](#). Title VI Assistance to Subrecipients.

PTCs provide Title VI assistance to Subrecipients. The PTN Compliance Specialist is responsible for Title VI program. This includes Subrecipient oversight, technical assistance for PTCs, and ensuring PTN's FTA Title VI requirements are met.

PTN may provide periodic Title VI training at semi-annual operator meetings, through webinars, and when requested by Subrecipients. PTN utilizes a Title VI program review checklist to assist PTCs and PTN Compliance Specialist in reviewing Subrecipient plans for accuracy and compliance with requirements.

Environmental Justice Requirements

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, requires the U.S. DOT and the FTA to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of programs, policies, and activities on minority populations and/or low-income populations (collectively "EJ populations"). TxDOT and Subrecipients of FTA funds shall incorporate

environmental justice and non-discrimination principles into transportation planning and decision-making processes as well as project-specific environmental reviews.

Subrecipients will follow the guidance in FTA Circular 4703.1, “Environmental Justice Policy Guidelines for Federal Transit Administration Recipients,” including environmental justice analysis and meaningful public outreach. The Circular provides examples of effective strategies for engaging minority and low-income populations in support of Title VI public participation plans.

Equal Employment Opportunity

On an annual basis, FTA includes PTN a Nondiscrimination Assurances, in the annual certifications and assurances document. PTN passes this requirement on to Subrecipients who sign the same Nondiscrimination Assurunce document, which is uploaded in PTN’s eGrants system, the office of record. PTN EEO Requirements and Implementation Procedures:

1. PTN does not meet the threshold of fifty (50) or more transit-related employees and therefore, is not required to submit an EEO Plan that meets the requirements of FTA Circular 4704.1A. However, PTN will work with CIV to include, to the extent possible, the provisions of the FTA Circular in the Department’s EEO Program.

EEO Subrecipient General Requirements and Implementation Procedures

PTN Subrecipients must ensure that no person in the United States shall on the grounds of race, color, creed, national origin, sex, age, or disability be excluded from participating in, or denied the benefits of, or be subject to discrimination in employment under any project, program, or activity receiving federal financial assistance.

Subrecipients that employ one hundred (100) or more transit-related employees and request or receive capital or operating assistance in excess of \$1 million in the previous Federal fiscal year or request or receive planning assistance in excess of \$250,000 in the previous Federal fiscal year are required to prepare an EEO Program plan that meets all seven EEO program elements and is in compliance with EEO requirements set forth in FTA Circular 4704.1A, “Equal Employment Opportunity Requirements and Guidelines for Federal Transit Administration Recipients” (page 2-1).

Subrecipients that employ between 50–99 transit-related employees are required to prepare and maintain an abbreviated EEO Program that includes the first five required program elements. The agencies are not required to conduct a utilization analysis with goals and timetables.

Subrecipients that do not meet either EEO Program threshold above are not required to submit an EEO Program to PTN but are still required to comply with all EEO statutes and regulations. Agencies will make their EEO Program available to PTN for review upon request.

Subrecipients administering grants within the PTN eGrants system that meet the EEO Program threshold must upload their EEO Program plan in the PTN eGrants system, section ComplianceForms. Dual recipients who receive grant funds directly from FTA and receive pass through funds from PTN, submit their EEO program plan directly to FTA. For the purpose of PTN eGrants Compliance Forms, dual recipients will include with their EEO program plan a screenshot of their program submission in TrAMS. PTN PTCs review the results from the PTN-129 Compliance form, section EEO and identify if an agency meets the EEO program thresholds. This information is used by the PTN Compliance Specialist assigned oversight of the EEO Program.

Subrecipients who are required to complete an EEO Program Plan, full or abbreviated, must upload their EEO Program into the eGrants system, section Compliance Forms, line item EEO. The EEO Program is reviewed by the PTN Compliance Specialist using a program specific checklist. EEO Programs are identified as meeting the required program elements or if a revision is necessary the PTN Compliance Specialist coordinates the revision with the Subrecipient's PTC, who then follows-up with the Subrecipient. Compliant plans that meet EEO requirements receive PTN's approval letter, provided to the PTC, who then forwards the letter to the Subrecipient. A copy of the approval letter and the plan are uploaded into eGrants, Compliance Forms. EEO Program plans must be updated every four years.

PTN EEO Monitoring

PTN reviews Subrecipient EEO compliance as part of PTN's biennial Subrecipient monitoring using the PTN Compliance Monitoring form (PTN-129). Monitoring includes determining whether the Subrecipient and their contractor(s) meet the threshold to submit an EEO Program plan and have approved plans submitted to PTN. PTN also tracks and maintains a list of complaints alleging EEO discrimination for both PTN and Subrecipients. Every effort will be made to resolve complaints locally at the Subrecipient and/or contractor level.

EEO Technical Assistance

PTN provides EEO technical assistance to Subrecipients through PTCs located throughout TxDOT districts. The PTN Compliance Specialist responsible for EEO Subrecipient oversight provides technical assistance to PTCs and ensures PTN's FTA EEO requirements, if applicable, are met.

PTCs and the PTN Compliance Specialist assist Subrecipients to meet FTA and TxDOT EEO compliance requirements. Since resources are generally limited for these implementing agencies, PTN provides an EEO plan review checklist. PTN may provide periodic EEO training at semi-annual operator meetings, through webinars, and when requested by Subrecipients.

Americans with Disabilities Act of 1990

Pursuant to 49 CFR Part 37, the Americans with Disabilities Act of 1990 provide that no entity shall discriminate against an individual with a disability in connection with the provision of transportation service. The law and regulations set forth specific requirements for vehicle and facility accessibility and the provision of service, including reasonable modifications to providers' transportation service procedures. This service must include employment (applicants, hiring, advancement, or discharge of employees, compensation, job training, and other terms conditions, and privileges of employment), providing accessibility to public facilities (constructing or acquiring accessible facilities), and providing accessible vehicles to potential riders regardless of their impairment.

Each public entity operating a fixed route system shall provide a paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system. To be deemed comparable to fixed route service, a complementary paratransit system shall meet the requirements of 49 CFR 37.123-.133.

Subrecipients operating a route deviation service must ensure that the route deviation service has the characteristics of demand-responsive service, including:

1. Response time
2. Fares
3. Geographic area of service
4. Hours and days of service
5. Restrictions or priorities based on trip purpose
6. Availability of information and reservations capability
7. Any constraints on capacity or service availability

To be considered demand responsive, the service must deviate for the general public, not just persons with disabilities. If deviations are restricted to a particular group, the service ceases to be a form of demand-responsive service for the general public.

PTN will review each public entity operating a fixed route system for all ADA requirements using the PTN-129 Compliance Review form. The review will include evaluations of complementary paratransit and route deviation services, as appropriate.

PTN ADA Monitoring

PTN requires Subrecipients annually sign Nondiscrimination Assurances included in FTA's notice of Certifications and Assurances. PTN submits the signed Certifications and Assurances to FTA and retains the same documents from Subrecipients.

PTN reviews Subrecipient ADA compliance as part of PTN's biennial Subrecipient monitoring using the PTN Compliance Monitoring form (PTN-129 or PTN-137).

The PTN-129 review covers 49 CFR Part 37, Subparts A, C, D, E, F (fixed route only) and Subpart G. Verification through the PTN-129 form will include reviewing printed materials provided to the public, (brochures, and website information), talking to appropriate transit staff (dispatchers, administrative personnel) and riding the routes to observe services.

The PTN Compliance Specialist reviews Subrecipient eGrants Service Profiles and identifies Subrecipients who need to submit a "Complementary ADA Paratransit Plans for Fixed-Route Providers." If required, the ADA plan is uploaded in eGrants, section: Compliance Forms. The PTN Compliance Specialist reviews the plan, using the ADA Complementary Paratransit Service Plan checklist, and determines if it includes the required elements. If yes, the plan is approved in eGrants. If a revision is needed, the PTN Compliance Specialist coordinates the revision with the Subrecipient's assigned PTC. The plan is re-reviewed and when it is deemed approved, the eGrants system is updated and the document is uploaded in eGrants for record retention.

If a Subrecipient makes changes to an approved plan, the plan must be resubmitted, and any service changes documented. The PTN Compliance Specialist will review the plan using the ADA Complementary Paratransit Service Plan checklist.

PTN tracks and maintains a list of complaints alleging ADA discrimination for both PTN and Subrecipients. Every effort will be made to resolve complaints locally at the Subrecipient and/or contractor level.

USDOT Section 504 Requirements

Prior to the passage of the ADA in 1990, Section 504 of the Rehabilitation Act of 1973 was implemented to prohibit discrimination against individuals with disabilities by entities that receive Federal funds. The purpose of the Rehabilitation Act is to ensure that individuals with disabilities are not excluded from, denied the benefits of, or subject to discrimination in any programs or activities receiving Federal financial assistance. The DOT regulations implementing Section 504 are found at 49 CFR Part 27. In order to receive Federal financial assistance, grantees must comply with Section 504. In order to comply with DOT's Section 504 regulations, grantees must comply with the DOT ADA regulations. Subrecipients agree to Section 504 regulations as part of annual Certifications and Assurances.

Charter Bus

FTA regulations 49 CFR Part 604 and PTN “FTA’s Charter Regulations: Compliance Guide for Texas Public Transit Systems” (October 2009 revision) place limits on the charter services that federally funded public transportation operators may provide. The charter service regulation applies to both buses and vans. Subrecipients agree to comply with the charter regulations as part of the MGA and annual certifications and assurances.

Subrecipients are required to submit reports on charter service quarterly. Subrecipients with grants administered in the PTN eGrants system complete charter reporting within eGrants. (Note: 5307 providers will report charter service, relative to non-rural service/assets, directly to FTA in the USDOT Charter Reporting web portal.)

Subrecipients with grants not administered in the PTN eGrants system submit their charter report to their PTC using the PTN-104 form. The PTN Compliance Specialist collects all PTN-104 forms and reviews the submitted charter reports in eGrants. Applicable data is compiled into one charter service report for all Subrecipients. The PTN Compliance Specialist submits the quarterly data to the FTA via the USDOT Charter Reporting web portal.

PTCs review charter services and reporting as part of the compliance monitoring using the PTN-129 and PTN-137 forms.

For detailed policies and procedures related to charter service, refer to FTA charter guidance located on the [TxdOT website](#).

Prohibition of Exclusively School Transportation

Subrecipients may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operations (49 CFR Part 605). Subrecipients may enter into a school bus agreement in accordance with 49 CFR Part 605, Subpart B. The agreement must be approved by the FTA Administrator and a copy of the approval provided to PTN before school bus operations commence. Subrecipients agree to comply with the school bus operations regulations as part of the MGA and annual certifications and assurances.

Trippler Service

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

schedules. Subrecipients are not required to report tripper service to their PTCs as service occurs. Compliance with school transportation regulations will be reviewed by PTCs using the PTN-129 and PTN-137 forms.

Environmental Protections

Environmental Review of Projects under NEPA & Related Laws

The National Environmental Policy Act of 1969 (NEPA) requires agencies using federal funds to integrate environmental values into their decision-making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. FTA's environmental impact regulations (23 CFR Part 771) require different levels of analysis and documentation for the various types of projects funded through its programs. Most projects and activities funded through the Section 5310, 5311, and 5339 programs do not normally involve significant environmental impacts. All projects and activities must fit into one of the following categories to determine the appropriate level of environmental review:

Categorical Exclusions (CE)

These projects, also known as CEs, are the types of projects which have been pre-determined to have no significant impact to the environment. FTA regulations provide for two sub-types of CEs:

1. C-List CEs (so called because they are in the joint FHWA-FTA regulation 23 CFR 771.118(c)): these require only a FTA Region 6 CE Work Sheet (available on the TxDOT website or from your PTC) that includes the scope of work and the rationale/citation of the federal regulations specifying the category under which the project is excluded. These include activities and projects which have very limited or no environmental effects at all, such as:
 - a. Planning
 - b. Technical studies
 - c. Preliminary design work
 - d. Program administration
 - e. Operating assistance
 - f. Transit vehicle purchases

2. D-List CEs (in 23 CFR 771.117(d)): these normally qualify for a CE but are projects that involve more construction and greater potential for off-site impacts. Examples include:
 - a. New construction
 - b. Expansion of transit terminals
 - c. New/expanded storage and maintenance garages

- d. Office facilities
- e. Parking facilities

Experience has shown that these projects can be built and operated without causing significant impacts if they are carefully sited in areas with compatible land use where the primary access routes are adequate to handle the additional transit vehicle traffic. These construction projects may be designated as CEs after FTA approval. It is the applicant's responsibility to provide documentation which clearly demonstrates that the stated conditions or criteria are met and that no significant adverse effects will result. Such documentation is usually narrowly focused on one or a limited number of environmental concerns or questionable areas.

Depending on the circumstances, some technical analysis may be required, such as a noise impact assessment or a street capacity analysis, but in most cases, the documentation will focus on consistency with local land-use plans, zoning, and any State or local plans or programs governing the protection and management of environmental resources, such as air quality, water quality and noise abatement. The documentation will provide a written record of coordination with those State and local agencies having jurisdiction or a special interest in some aspect of the project. There is no formal public review for these types of environmental studies. The D-List CE documents (PTN-135 and agency supporting information) are reviewed by the PTC and submitted to the Program Manager at PTN headquarters in Austin. FTA reviews this information and determines if a CE is appropriate. In order to include or advance such a project to Category A, the State must have on file a letter from FTA approving the CE.

CE Worksheet Procedures

1. Agencies must use the latest version of the FTA Region 6 Categorical Exclusion Work Sheet for all transit facility construction and renovation projects funded through a PGA with PTN. The Work Sheet can be completed and submitted to the PTC before a project is submitted to TxDOT for federal or state funding and before a PGA is issued by TxDOT. Agencies shall coordinate with their PTC as part of their planning and preliminary engineering phases of all transit facility construction projects.
2. The CE Work Sheet is reviewed by the PTC with the assistance of the TxDOT District Environmental Coordinator and submitted to the PTN headquarters in Austin.
3. PTN headquarters will log the CE Work Sheet for tracking purposes and send it by email to FTA Region 6 for approval.
4. Once that approval is received, PTN headquarters will email that information to the PTC for distribution to the agency.
5. NOTE: FTA must concur with a CE before the agency can incur costs for federal or state reimbursement for all project development phases after preliminary engineering, including final design, real estate or right of way acquisition, procurement, and construction phases (23 CFR 771.113).

The final determination whether a project is a CE or EA rests with the FTA Region 6 Office.

Environmental Assessments (EA)

For any project which is not found to be a CE, the lead agency may be required to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The primary purpose of an EA is to help FTA determine whether or not an EIS is needed. Therefore, an EA is prepared when a project cannot be processed as a CE and does not clearly require the preparation of an EIS or when an EA would assist in determining the need for an EIS. The end result of an EA is either a finding of no significant impact (FONSI) or a determination that an EIS must be prepared. One of the keys to a successful environmental review process for environmental documents is to coordinate with TxDOT and FTA during the project initiation, early when the project concept is evolving. A project which requires an EA may not be included in Category A before FTA has issued a FONSI for the project.

To determine which type of documentation should be prepared for a project, PTN will coordinate with the TxDOT district Environmental Coordinator. If an EA is prepared the EA will be sent to the TxDOT Environmental Affairs Division who will forward the EA to the FTA regional office in Fort Worth. Operators must comply with all provisions of FTA guidelines in preparing an EA, and provide any additional data requested by FTA. EA's are generally required for larger construction projects or projects proposed in sensitive areas. Examples of projects that may require EA's are new construction of terminals and maintenance facilities, rehabilitation of facilities not previously used for public transportation purposes, transit malls, and park-and-ride lots. As a guide for project development purposes, an EA is estimated to require between six months and one year for development, review, and a final determination by FTA.

In the unlikely event that significant environmental impacts are identified for a project through an EA, an Environmental Impact Statement (EIS) will be required.

Environmental Impact Statement (EIS)

Depending on the nature of the proposed project, FTA may immediately require applicants to develop an Environmental Impact Statement (EIS), or request an EIS based on the outcome of an EA. In either case, an EIS requires that a substantial technical analysis and public review process be conducted to evaluate project alternatives, identify potential social, economic and environmental impacts of the project, and designate methods to avoid or mitigate these impacts. Successful completion of an EIS results in FTA signing a Record of Decision (ROD). Once FTA has signed a ROD, the applicant can proceed with the project having complied with NEPA and FTA may act on the application for federal assistance. As a guide for project development purposes, an EIS is estimated to require between two and six years, depending on the scale and complexity of the major project and its context.

Related Environmental Protections

In addition to NEPA compliance, there are related environmental laws and regulations that may apply to a project. These may involve historic preservation, protection of public parks and recreation areas, flood plain concerns, and wetland preservation. TxDOT will provide assistance to prospective applicants in addressing the environmental protection provisions and will coordinate the appropriate review activities with FTA.

Transportation Conformity with Air Quality Plans

Agencies located in air quality non-attainment or maintenance areas may be affected by the National Ambient Air Quality Standards from the Clean Air Act Amendments of 1991 (CAAA) and State Implementation Plans (SIPs) to achieve and maintain air quality standards. PTN will solicit prior concurrence from FTA before submitting all FTA grant applications to determine whether any proposed projects listed to be funded are air quality issues will be considered by the MPOs and/or the Texas Council on Environmental Quality (TCEQ) in those areas as part of the project selection process.

Restrictions on Lobbying

Pursuant to 31 U.S.C. § 1352 and 49 C.F.R. Part 20, which prohibit recipients and Subrecipients of federal funds from using those monies for lobbying purposes, recipients and Subrecipients shall comply with the special provision “New Restrictions on Lobbying. Each year, with the annual certifications and assurances, Subrecipients complete OMB Standard Form LLL and document if they are participating in lobbying activities. If yes, each State fiscal quarter, PTN will confirm the following:

- That non-federal funds were used to pay for lobbying activities.
- If local funds were used, the proper disclosures made.
- If there was a cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a “covered Federal action.”
- A change in the person(s) attempting to influence such action.
- A change in the officer(s), employee(s), or member(s) contacted to attempt to influence such action.
- Subrecipients with contractors or subcontractors confirmed lobbying activities and collected OMB Standard Form LLL.
- A copy of the form(s) was provided to PTN.

Labor Protections

Davis-Bacon and Related Acts

The Davis-Bacon and Related Acts apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Title 49 U.S.C. Section 5333(a) requires such action as may be necessary to ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of loans or grants under this Act be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. Subrecipients agree to the Davis-Bacon Act provisions in the MGA and annual certifications and assurance. PTCs may monitor compliance with the Davis-Bacon and related Acts as part of the quarterly monitoring.

Employee Protection Provisions of Section 5333(b)

Title 49 U.S.C. 5333(b) requires that the interests of employees affected by assistance under most FTA programs shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. Title 49 U.S.C. 5311(i)(1) requires that the Department of Labor (DOL) use “a special warranty that provides a fair and equitable arrangement to protect the interests of employees.” Subrecipients agree to the employee protection provisions in the MGA and annual certifications and assurance.

Public Transportation Safety

FTA’s Public Transportation Agency Safety Plan (PTASP) Final Rule, which requires certain operators of public transportation systems to develop safety plans that include the processes and procedures to implement Safety Management Systems (SMS), is effective as of July 2019. The PTASP Rule requires agency safety plans to be implemented prior to July 20, 2020. The rule applies to all operators of public transportation systems that are recipients and sub-recipients of federal financial assistance under the Urbanized Area Formula Program (49 U.S.C. § 5307). If an agency is a dual recipient of Section 5307 and 5311 funds, the agency safety plan should cover the agency’s entire fleet. PTN coordinated with thirty-eight (38) applicable transit providers to draft and certify their plans as compliant in advance of the rule deadline.

Requirements of the PTASP rule in 49 CFR Part 673 include:

1. The State shall initially prepare and certify that the recipient or State has established a comprehensive agency safety plan that includes, at a minimum:
 - a. Requirement that the Accountable Executive sign the agency safety plan,

- the board of directors (or equivalent entity) of the recipient approve the agency safety plan and any updates to the agency safety plan
- b. Documentation of the processes and activities related to SMS implementation described in 49 CFR Part 673 Subpart C, which includes Safety Management Policy, Safety Risk Management, Safety Assurance and Safety Promotion
 - c. Process and timeline for conducting an annual review and update of the safety plan of the recipient and
 - d. Performance targets based on the safety performance criteria and state of good repair standards when established by the U.S. DOT Secretary in the National Public Transportation Safety Plan; assignment of an adequately trained safety officer who reports directly to the general manager, president, or equivalent officer of the recipient.

Drug and Alcohol Program

Drug- Free Workplace Act

TxDOT provides an annual certification that the entire Department, including PTN, is a Drug Free workplace.

Drug and Alcohol Testing

Grant Subrecipients of 5311 funds are required to establish a drug and alcohol testing program in compliance with 49 CFR Part 655 Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations of the FTA regulations and 49 CFR Part 40 of the U.S. DOT regulations. Subrecipients are required to annually certify their compliance with these federal regulations; failure to comply results in suspension of funding.

In August 2017, PTN outsourced the drug and alcohol compliance monitoring. The chosen vendor monitors Subrecipients and applicable contractors over a three-year period.

For each Subrecipient, the vendor will begin with a Pre-On-Site visit to assess the level of compliance. This includes a review the Subrecipient's Policy and Service Agent credentials. The vendor also conducts phone interviews with the Medical Review Officer and Substance Abuse Professional and, if applicable, the Third-Party Administrator to assess their level of compliance. This will be followed by the monitoring, in which the vendor goes onsite to the Subrecipient's location and reviews the drug and alcohol testing records and conducts compliance interviews with agency staff. The vendor will next accompany the Subrecipient to the collection site most frequently used. The vendor demonstrates how to perform and document compliance oversight.

After the monitoring is complete, the vendor will document best practices and any identified deficiencies and draft a corrective action plan to address deficiencies. The vendor will provide

technical assistance during the corrective action process and verify the corrective actions have been completed. As part of the monitoring process and contractual requirements, the vendor will provide the PTN HQ Drug and Alcohol Program Manager (DAPM) with an Initial and Final Report for each Subrecipient. The PTN HQ DAPM will upload the Subrecipient's Final Report into the eGrants system. The vendor will also provide PTN an End-Of-Year Summary Report at the end of each contract year.

Subrecipients that need drug and alcohol program technical assistance outside of the vendor monitoring process will communicate any questions with their PTC, who will then follow-up with the PTN DAPM. The PTN DAPM provides technical assistance, communicates the information to the PTC, who in turn communicates the information to the Subrecipient.

Drug and Alcohol Management Information System (DAMIS)

The Drug and Alcohol program requires Subrecipients to annually report their drug and alcohol testing results in the U.S. DOT's DAMIS.

At the end of December or beginning of January, the FTA Drug and Alcohol Project Office provides the PTN DAPM the username and password for the department. PTN does not have safety sensitive staff and, therefore, submits the data into the web portal with all zeros. Username and passwords are also provided for the Subrecipient and, if applicable, any third-party contractors. The PTN HQ DAPM emails Subrecipients information on how to complete the report and their individual usernames and passwords. Subrecipients with Third Party Contractors (TPCs) (agencies who provide transit service on behalf of Subrecipients) will be sent the TPCs usernames and passwords, which they are required to send to the TPCs. Subrecipient TPCs are required to enter their drug and alcohol testing data into the DAMIS web portal. Subrecipients should verify the data submitted by the TPC is correct and accurate.

Upon receipt of the Subrecipient's TPCs usernames and passwords, if a Subrecipients identifies a TPC that is no longer active or they need to add a new TPC, the Subrecipient is required to communicate this information immediately to the PTN DAPM, who will then in turn follow-up with the FTA Drug and Alcohol Project Office.

DAMIS reports for Subrecipients and applicable TPCs are due in the web portal on or before February 15th of each year. The PTN DAPM, reviews Subrecipient and contractor data and approves the final report in the web portal. If a revision is needed, the PTN DAPM will coordinate directly with the Subrecipient and/or covered contractor so corrections can be made in the system.

The PTN DAPM has until March 15th of each year to review and approve all reports in FTA's DAMIS web portal.

Vehicle/Equipment Incidental Uses

Federal regulations require that all vehicles and/or related equipment acquired be used for its intended program purpose. Program purposes include but are not limited to transportation of people to:

1. Shopping
2. Medical appointments
3. Social services and facilities
4. Recreational or social activities
5. Employment
6. Rehabilitation services

TxDOT public transportation programs are not intended to provide priority medical transportation or ambulance services. Subrecipients may coordinate and assist in providing incidental services if such service does not conflict with the provision of transit services or result in a reduction of service to transit passengers. Subrecipients may not alter any equipment purchased for the provision of incidental service.

TxDOT monitors all Subrecipients for compliance to ascertain that incidental service is not interfering with passenger transport. As a rule of thumb, a vehicle must be in use to serve the purposes of the program that purchased it 60% of the time. Vehicle checks occur during the biennial site inspection (physical inspection) of equipment, and more often at TxDOT's discretion, to ensure that equipment has not been altered to suit non-public transportation purposes.

In the event that there is a violation of these requirements that is not readily resolved, TxDOT will meet with the Subrecipient to determine the best means for achieving the program's objectives without violating the restriction.

Reporting Requirements

The FTA defers to the state, where possible, regarding the development of specific program standards, criteria, procedures and policies in order to provide Texas the flexibility to standardize its management of these Federal programs and related programs.

Any agency, local government or other entity, including non-profit organizations and ICB carriers, using state funds or state-administered Federal funds for the purpose of transporting private citizens on a regular basis, must provide input and information as requested by TxDOT in a timely manner and in a format specified by the department.

Project Monitoring and Reporting

TxDOT is required to monitor and report on a variety of items, including ridership, revenues, expenses, vehicle and equipment management, drug and alcohol testing, involvement of DBE, and service coordination efforts. Some reports are filed each quarter and others are filed annually. Subrecipients are required to provide data to the department.

All Federal and state contractual and monitoring requirements remain in effect for the duration the Subrecipient holds the title to equipment and facilities. Failure to remain in compliance with program requirements, submit data on a timely basis, or meet with TxDOT staff can result in sanctions as severe as contract termination and losing the use of vehicles and equipment.

A continuous system of checks and balances is built into project monitoring. This includes review of Subrecipient reports, invoice processing and the generation of supplemental agreements. Open channels of communication, site visits, and compliance review processes enhance these methods.

Milestone Progress Reports (MPRs)

PTN is required to submit MPRs to FTA. TxDOT understands that FTA uses the MPRs to evaluate several elements of the grant status, such as:

1. Purposes of the grant are being achieved
2. Project is progressing on time and within budget
3. Subrecipient is demonstrating competence and control in executing the project
4. Project meets all program requirements
5. There is a problem developing which may require FTA resources to resolve

Program Managers are responsible for submitting milestone changes in TrAMS on a quarterly basis (30 days after the end of federal fiscal year quarter) or more frequently if needed. PTCs assist Program Managers in ascertaining grant or project status.

The purpose of these reports is to update FTA on significant project events and estimated completion dates in comparison to the dates that were estimated in the original grant application. Program Managers will provide a summary of overall project status in TrAMS sufficient to allow FTA reviewers to understand project issues/delays and reasons for them, even if the FTA reviewer has no previous knowledge of the projects or Subrecipients.

The summaries must have an obvious correlation with the individual project details which make up the entire federal grant.

All changes in category of performance (scope) for a grant are reported in TrAMS and include, but not limited to the following:

1. The original estimated, revised, and actual completion dates
2. The dates of expected or actual requests for bid, delivery, and other events
3. A narrative description of project status, including reasons why the milestones were not met
4. Any unforeseen events that affected project schedule, cost, or purpose

National Transit Database (NTD)

Public transportation providers are required to report operating and financial data to the FTA through the NTD. Urban operators (including any operators using Section 5307 funds) report directly to the NTD. These agencies also provide a summary report for Section 5311 funded activities to TxDOT, which is then uploaded into the NTD by TxDOT. This section of the State Management Plan describes the process used by PTN to report on behalf of the majority of rural public transportation providers.

PTN Process for NTD Reporting

PTN Administration and Program Support Section is responsible for NTD data collection and reporting. Through technical assistance provided by TTI, the section uses the PTN-128 Reporting System for NTD data collection and analyses. Subrecipients access the PTN-128 web system (described in detail below) directly on a monthly or State Fiscal Year (SFY) quarterly basis to enter NTD operational and financial data used for NTD. Sub-awardees that receive FTA funds from PTN Subrecipients also report their data for NTD to PTN using the PTN-128 web system. After the close of SFY quarters, PTN data reporting staff ensures that all Subrecipient reports are received and follows up with Subrecipients for missing reports or other data issues.

PTN and TTI staff will conduct quarterly reviews of data and provide Subrecipients with quarterly status reports. In cases of significant issues, PTN and TTI staff will coordinate with Subrecipients to address data issues.

After the conclusion of the SFY, the Administration and Program Support Section performs another verification of Subrecipient reports and informs TTI when the data is ready for analysis and assessment. Final review of the data reported to PTN-128 is performed by TTI and PTN and then the report for the year is closed once all data issues are addressed. Fleet data from the PTMS (described in detail below) and the PTN-128 data for the SFY are then entered annually, generally in January, into the NTD system by the PTN Administration and Program Support Section using the RU-20, RU-23, and other forms.

PTN-128 Reporting System

Title 49 U.S.C. 5311 (b)(4) provides NTD reporting requirement for rural public transportation providers, including the following information, which is captured through the use of the PTN-128 reporting system:

1. Total annual revenue
2. Sources of revenue
3. Total annual operating costs
4. Total annual capital costs
5. Rural maintenance facilities
6. Revenue vehicle miles
7. Ridership

PTN-128 reporting system is a Web-based application that provides methods for data entry and data reporting through a standard Web-browser interface. The data entered into the PTN-128 system is stored in a relational database in a central location accessible by a series of Web forms.

The PTN-128 reporting system is PTN's mechanism for collecting uniform public transit data to the state. All federal and state funded transit agencies are required to submit data to PTN on a quarterly basis during each state fiscal year (September 1 - August 31). This includes the metropolitan transportation authorities (MTAs), urbanized area agencies, rural transit districts as well as those providing specialized transportation through the FTA Section 5310, and 5339 programs.

The PTN-128 reporting system is also a quality control tool that enables the most accurate data reporting available at this time. The purpose of collecting this information is to comply with statutory and regulatory requirements, and to provide current and prior year performance data for transit agencies receiving any federal and state funds. In addition to state reporting, the PTN-128 is used to prepare reports required at the federal level.

All FTA Section 5307, Section 5310, and Section 5311 transit agencies shall submit reports to TxDOT on a quarterly and state fiscal year (September 1 through August 31) basis. This is done in accordance with the Texas Transportation Code Sections 456.008, 456.026 and 43 TAC Section 31.48. (Although the reports are entered quarterly, the data provided is by month.)

The annual finalized PTN-128 data is used to create reports such as *Texas Transit Statistics*, which is also used to communicate Texas' need for public transportation, show that dollars are being used effectively and efficiently, and support the need for further public transportation funding.

TTI is contracted to maintain and update the PTN-128. PTN's responsibility is to coordinate with TTI in regard to providing PTN-128 access to transit agencies. Quarterly and at the end of the Fiscal Year, TTI reviews year-to-date data submittals to check for discrepancies in the PTN-128 in preparation for publishing the *Texas Transit Statistics* report. The report is published annually with a completed copy due by March 15, as required by the State.

The PTN-128 system centralizes the data entry forms and quality control mechanisms by providing a uniform interface for all transit providers. The web-based data collection and reporting tool provides several features for transit staff and reviewers to better ensure data accuracy and reasonableness, including comparisons to previous year data, performance measurements, color-codes to flag potential errors (missing data, negative miles/hours, significant change in monthly data), revenue-to-expense comparison, and annual performance reports.

NTD Rural Fleet and Incident Reporting

Information from the PTMS is used to complete the fleet reporting piece of the NTD reporting for each rural agency, if that agency does not use Section 5307 funding (urban agencies report directly to the NTD).

As PTMS information is kept current by annual inventory activity, there is no requirement for rural agencies to separately report fleet information to support NTD reporting through TxDOT. Instead, PTN headquarters personnel accomplish fleet reporting. Specifically, PTN's NTD reporter prints-out each rural agency's fleet list from the previous year's report and provides this to the fleet planner. The fleet planner will compare each agency's fleet list to the information in the PTMS and updates the list so it reflects the revenue service fleet in operation during the reporting year. The updated list is then provided so the NTD report can be updated in the on-line system.

Information regarding specific incidents involving rural agencies who are not also small urban agencies shall complete and submit to PTN using the PTN- 101 form for all reportable incidents, including:

1. An incident resulting in one or more fatalities
2. An incident causing one or more injuries that require treatment away from the scene and
3. An injury resulting in \$25,000 or more in total damage

PTN will collect small urban incident data from NTD reporting system.

Although not expected to occur in a rural agency setting, any incident resulting in a bus evacuation and any mainline derailment shall be reported regardless of damage amount or whether or not anyone was injured or killed.

Affected agencies shall notify TxDOT within five (5) days of a reportable incident by submitting a PTN-100 or 101 form. If information is pending, such as the report, as much information as is

available should be entered on the form as possible and “pending” should be entered on the form for submission within the five (5) day window. The completed form may be provided later when the pending information is obtained.

NTD Reporting Reconciliation

After TxDOT completes the NTD reports, NTD will review the reports for discrepancies such as missing information, large data fluctuations from the previous annual reports, and information that is out of the range of tolerances established by NTD. NTD will contact TxDOT’s NTD reporter and identify these discrepancies. TxDOT will review the discrepancies, correct the discrepancies, or verify that the information was correct as initially submitted.

Monitoring Program

PTN monitors all project activities, services, project administration and management practices supported with Federal and/or state funds, to ensure compliance with Federal and state regulations.

Quarterly Monitoring

PTN PTCs conduct quarterly financial reviews of all Subrecipients using the Quarterly Monitoring form (PTN-126) located on the TxDOT.gov website.

The PTC will give the Subrecipient prior notification of each review to be conducted.

During the monitoring, the PTC consults with grantee staff, reviews project progress, monitors and reviews grant reimbursements, and provides technical assistance to grantee staff (43 TAC 31.48).

The completed PTN-126 form is discussed with the Subrecipient and a copy of the signed form is uploaded into eGrants.

Results of Quarterly Monitoring are used to determine appropriate financial documentation review with each request for reimbursement, i.e. streamline or full documentation status. Any deficiencies identified during the review may result in an Improvement Action Plan (IAP).

Compliance Monitoring

PTN PTCs conduct program compliance reviews of Section 5310, 5311, 5339 Subrecipients receiving state funds using the PTN-129 form located in eGrants or on www.txdot.gov

to ensure consistency with program areas that FTA reviews with TxDOT in the State Management Reviews. Each biennium, all Subrecipients will receive a comprehensive compliance review. Review of applicable programs includes:

1. Project Management
2. Financial Management and Capacity
3. Procurement
4. Disadvantaged Business Enterprises (DBE)
5. Asset Management
6. Charter Service
7. School Bus Operations
8. Americans with Disabilities Act (ADA)
9. Title VI of the 1964 Civil Rights Act
10. Equal Employment Opportunity (EEO)
11. Drug and Alcohol Programs

Deficiencies revealed during the fiscal year in which comprehensive review occurred will be re-assessed during the subsequent year's compliance review.

Each biennium when the PTN-129 Review is not conducted, the PTCs conduct program compliance reviews of Subrecipients that have received FTA assistance to purchase assets but no longer have an active grant agreement, using the PTN-137 form to ensure consistency with FTA and TxDOT asset management requirements.

The PTN-129 and PTN-137 Compliance Monitoring forms can be found on the [TxDOT website](#). The PTC notifies the Subrecipient in writing of any deficiencies or findings noted during the monitoring visit. To ensure corrective actions are implemented, the PTC may conduct a follow-up visit or verify via email. Deficiencies are documented and acknowledged by the Subrecipient in one of two ways, as prescribed by the Texas Administrative Code, and PTN policies and procedures:

1. Deficiencies that can be corrected before the completion of the on-site review will be documented and noted as closed on the monitoring form. This information is documented for use by PTN in assessing program effectiveness, improvements to monitoring forms, and future technical assistance needs.
2. Deficiencies that cannot be corrected before the completion of the on-site review will result in an IAP in accordance with 43 TAC 9.134. The IAP will document actions to be taken by the Subrecipient within the specified time period. IAPs must be documented in eGrants. IAPs are reported in summary to TxDOT executive management on a monthly basis.

Agency Assessment

PTN tracks and reviews the data and results from various monitoring activities to determine Subrecipient performance in the administration of PTN grants.

The primary means for examining performance shall be the results of quarterly financial reviews, biennial compliance reviews, triennial reviews, annual audits, timely resolution of improvement action plans, and changes to staffing or processes within the Subrecipient's operation. Results will be reviewed on an on-going basis. PTN may use the information to guide funding decisions, determine appropriate monitoring, and recommend technical assistance.

Compliance

PTN's primary methods of ensuring compliance with federal and state regulation are to provide clear program guidance and supportive technical assistance to all Subrecipients receiving federal and state funds through the department. This is accomplished through the PTC with assistance of PTN HQ Compliance Specialist staff. As appropriate, PTN management may be involved to resolve program issues and challenges. At all times, the primary goal of PTN is to assist Subrecipients in executing a successful transit program, and fully meet federal and state requirements as efficiently and easily as possible.

In cases where technical assistance, consultation, and interagency coordination do not achieve compliance with federal and state regulations, the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), addresses enforcement, including grant sanctions. TAC 18.43(a) provides for remedies for noncompliance and states, "If a grantee or Subrecipient materially fails to comply with any term of an award, whether stated in a federal statute or regulation, an assurance, in a plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:

1. Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency
2. Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance
3. Wholly or partly suspend or terminate the current award for the Subrecipient's or subcontractor's program
4. Withhold further awards for the program or
5. Take other remedies that may be legally available

Title 43 TAC 31.48 states that a Subrecipient that fails to comply with federal or state law, standard or special grant or subgrant conditions, or contractual agreements on which the grant or subgrant award is predicated, is subject to sanctions under 43 TAC 9.133.

End of document.