

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

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

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

IT IS THEREFORE ORDERED by the commission that the amendments to §§31.3, 31.11, 31.30, 31.31, 31.36, 31.42 - 31.45, 31.47, 31.48, 31.50, and 31.57, and the repeal of §§31.17 and 31.18 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

Submitted and reviewed by:



Director, Public Transportation Division

Recommended by:



Executive Director

115012      AUG 31 '17  
Minute      Date  
Number      Passed

1 Proposed Preamble

2 The Texas Department of Transportation (department) proposes  
3 amendments to §§31.3, 31.11, 31.30, 31.31, 31.36, 31.42 - 31.45,  
4 31.47, 31.48, 31.50, and 31.57, and the repeal of §§31.17 and  
5 31.18, all concerning public transportation.

6

7 EXPLANATION OF PROPOSED AMENDMENTS AND REPEALS

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

14

15 SUBCHAPTER A, GENERAL

16 Amendments to §31.3, Definitions, reflect revisions to the Texas  
17 Administrative Code in Chapter 31 in accordance with state and  
18 federal statutes and federal guidance impacting the department's  
19 role in administering public transportation programs and remove  
20 references to repealed federal programs. The definition of  
21 "Common Rule," paragraph (10) is deleted. The United States  
22 Department of Transportation Common Rules have been superseded.  
23 The citation to the appropriate federal regulations has been  
24 substituted for the term "Common Rule" throughout the amended  
25 rules. The amendments delete the definition "job access  
26 project" which was used as part of a repealed federal statute  
27 and add the definition of "large urban transit district," in

1 accordance with HB 1140, 85th Legislature, Regular Session. The  
2 amendments add the definition of "small urban transit district,"  
3 in accordance with HB 1140, 85th Legislature, Regular Session.  
4 In the definition of "welfare recipient," the amendments remove  
5 a reference to a repealed federal statute.

6

7 SUBCHAPTER B, STATE PROGRAMS

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

16

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

23

24 Amendments to §31.11(b)(1)(A)(i) clarify the description of four  
25 urban transit districts in the Dallas-Ft. Worth-Arlington  
26 urbanized area. Instead of a description as "tier one," the  
27 text explicitly names these four transit districts. The

1 amendments also include the allocated amounts authorized by  
2 statute for each of these transit districts.

3

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

6

7 Amendments to §31.11(b)(1)(A)(iii) describe funding allocation  
8 methodology for the large urbanized areas. The amendments also  
9 include a cap on the population figure used in the formula of  
10 299,999 to allocate funds among all eligible large urbanized  
11 areas.

12

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

17

#### 18 SUBCHAPTER C, FEDERAL PROGRAMS

19 Section 31.17, Section 5316 Grant Program, and §31.18, Section  
20 5317 Grant Program, are repealed because the Section 5316 and  
21 Section 5317 grant programs were removed from federal statutes  
22 by the previous authorizing legislation, known as MAP-21.

23 Projects under §31.17 and §31.18 have been completed and closed  
24 out. No impact of the repeal to existing and potential  
25 subrecipients is expected.

26

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

12

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

15

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

22

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

25

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

4

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

7

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

14

15 Amendments to §31.30(f) refer to the latest federal guidance  
16 document and remove the reference to fleet condition.

17

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

20

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

25

26 Amendments to §31.31(d) show there is no distinction between  
27 primary and alternate recipients of Section 5310 funds for rural

1 and urbanized areas with a population of less than 200,000.  
2 Recipients are urban and rural transit districts, private non-  
3 profit organizations, state and local government authorities  
4 that coordinate services for seniors and individuals with  
5 disabilities, or taxis providing shared-ride service. Recipients  
6 that are not transit districts shall coordinate service with  
7 transit districts to ensure service does not duplicate existing  
8 service.

9  
10 Amendments to §31.31(e)(2)(A)(ii) clarify the description of  
11 vehicles by replacing the term paratransit with smaller  
12 accessible vehicles to avoid any confusion with vehicles that  
13 are used specifically for the ADA required paratransit service  
14 in places with fixed route bus service.

15  
16 Amendments to §31.31(e)(2)(A)(viii) expand the eligible items to  
17 lifts, ramps, and other securement devices to include new  
18 technology and to reflect the language in the federal circular.

19  
20 The amendment to §31.31(e)(2)(A)(x) clarifies the use of the  
21 word computer to cover the development of new technology beyond  
22 the term microcomputer.

23  
24 Amendments to §31.31(i)(1)-(2) reflect a change in department  
25 procedure. Local stakeholders are consulted during the public  
26 outreach process before project selection. Local planning and  
27 project development occur as part of the coordinated human

1 service transportation planning process, not as part of Section  
2 5310 public outreach. To increase fairness and equity, the  
3 department recommends projects that consider program goals and  
4 objectives. The reference to the FTA Circular is updated to  
5 9070.1G.

6

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

12

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

25

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

1  
2 Amendments to §31.36(e)(2)(A)(ix) and (xiii) revise the language  
3 to use the same terminology as used in the federal guidance.

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

7  
8 Amendments to §31.36(g)(3) add a one-time award to address  
9 changes in transit district boundaries as a discretionary  
10 allocation award category. Amendments to §31.36(g)(4) change  
11 the data element for calculating this award category from  
12 vehicle revenue miles to total vehicle miles.

13  
14 SUBCHAPTER D, PROGRAM ADMINISTRATION

15 Amendments to §31.42, Standard Federal Requirements; §31.43,  
16 Contracting Requirements; §31.44, Procurement Requirements;  
17 §31.45 Accounting and Financial Recordkeeping Requirements;  
18 §31.46, Reimbursement Procedures; §31.47, Audit and Project  
19 Close-Out Standards; and §31.48 Project Oversight, revise the  
20 rules to correct references to federal regulations and update a  
21 compliance monitoring practice.

22  
23 Amendments to §§31.42(a), 31.43(b), 31.44(b), 31.45(b), and  
24 31.47(b) refer to the latest federal regulations. Amendments to  
25 §31.48(b)(4) refer to the latest federal regulations and remove  
26 a reference to a state program that does not apply. The

1 amendment to §31.48(c)(3) changes a description to indicate a  
2 current compliance monitoring practice.

3

4 SUBCHAPTER E, PROPERTY MANAGEMENT STANDARDS

5 Amendments to §31.50, Recordkeeping and Inventory Requirements,  
6 and §31.57, Disposition, revise the text to correct references  
7 to federal regulations.

8

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

11

12 FISCAL NOTE

13 Brian Ragland, Chief Financial Officer, has determined that for  
14 each of the first five years in which the amendments and repeals  
15 as proposed are in effect, there will be no fiscal implications  
16 for state or local governments as a result of enforcing or  
17 administering the amendments or repeals.

18

19 Mr. Eric Gleason, Director, Public Transportation Division, has  
20 certified that there will be no significant impact on local  
21 economies or overall employment as a result of enforcing or  
22 administering the amendments or repeals.

23

24 PUBLIC BENEFIT AND COST

25 Mr. Gleason has also determined that for each year of the first  
26 five years in which the sections are in effect, the public  
27 benefit anticipated as a result of enforcing or administering

1 the amendments and repeals will be an efficient and effective  
2 distribution methodology for additional funds appropriated for  
3 public transportation grants, as well as an improved  
4 transparency and accountability of administering public  
5 transportation programs. There are no anticipated economic  
6 costs for persons required to comply with the sections as  
7 proposed. There will be no adverse economic effect on small  
8 businesses.

9

10 PUBLIC HEARING

11 Pursuant to the Administrative Procedure Act, Government Code,  
12 Chapter 2001, the Texas Department of Transportation will  
13 conduct a public hearing to receive comments concerning the  
14 proposed rules. The public hearing will be held at 9:00 a.m. on  
15 October 11, 2017, in the Ric Williamson Hearing Room, First  
16 Floor, Dewitt C. Greer State Highway Building, 125 East 11th  
17 Street, Austin, Texas 7801-2483 and will be conducted in  
18 accordance with the procedures specified in 43 TAC §1.5. Those  
19 desiring to make comments or presentations may register starting  
20 at 8:30 a.m. Any interested persons may appear and offer  
21 comments, either orally or in writing; however, questioning of  
22 those making presentations will be reserved exclusively to the  
23 presiding officer as may be necessary to ensure a complete  
24 record. While any person with pertinent comments will be  
25 granted an opportunity to present them during the course of the  
26 hearing, the presiding officer reserves the right to restrict  
27 testimony in terms of time and repetitive content.

1 Organizations, associations, or groups are encouraged to present  
2 their commonly held views and identical or similar comments  
3 through a representative member when possible. Comments on the  
4 proposed text should include appropriate citations to sections,  
5 subsections, paragraphs, etc. for proper reference. Any  
6 suggestions or requests for alternative language or other  
7 revisions to the proposed text should be submitted in written  
8 form. Presentations must remain pertinent to the issues being  
9 discussed. A person may not assign a portion of his or her time  
10 to another speaker. Persons with disabilities who plan to attend  
11 this meeting and who may need auxiliary aids or services such as  
12 interpreters for persons who are deaf or hearing impaired,  
13 readers, large print or Braille, are requested to contact the  
14 General Counsel Division, 125 East 11th Street, Austin, Texas  
15 78701-2483, (512) 463-8630 at least five working days before the  
16 date of the hearing so that appropriate services can be  
17 provided.

18

19 SUBMITTAL OF COMMENTS

20 Written comments on the proposed amendments to §§31.3, 31.11,  
21 31.30, 31.31, 31.36, 31.42 - 31.45, 31.47, 31.48, 31.50, and  
22 31.57, the repeal of §§31.17 and 31.18, may be submitted to Rule  
23 Comments, General Counsel Division, Texas Department of  
24 Transportation, 125 East 11th Street, Austin, Texas 78701-2483  
25 or to RuleComments@txdot.gov with the subject line "Public  
26 Transportation Rules." The deadline for receipt of comments is  
27 5:00 p.m. on October 16, 2017. In accordance with

1 Transportation Code, §201.811(a)(5), a person who submits  
2 comments must disclose, in writing with the comments, whether  
3 the person does business with the department, may benefit  
4 monetarily from the proposed amendments or repeals, or is an  
5 employee of the department.

6

7 STATUTORY AUTHORITY

8 The amendments and repeals are proposed under Transportation  
9 Code, §201.101, which provides the Texas Transportation  
10 Commission with the authority to establish rules for the conduct  
11 of the work of the department, and more specifically, §456.022,  
12 which provides the commission with authority to adopt rules  
13 establishing a formula allocating funds among individual  
14 eligible public transportation providers.

15

16 CROSS REFERENCE TO STATUTE

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

1 SUBCHAPTER A. GENERAL

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 7/31/2017 10:15 AM

Exhibit B

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 7/31/2017 10:15 AM

Exhibit B

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

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

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

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

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

4                   (A) is targeted toward people with disabilities;

5                   (B) is beyond the ADA requirements;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 7/31/2017 10:15 AM

Exhibit B

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

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

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

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

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

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

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

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

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

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

SUBCHAPTER B. STATE PROGRAMS

§31.11. Formula Program.

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

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

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 7/25/2017 12:29 PM

Exhibit C

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 7/25/2017 12:29 PM

Exhibit C

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 7/25/2017 12:29 PM

Exhibit C

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 7/25/2017 12:29 PM

Exhibit C

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

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

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

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

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

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

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

SUBCHAPTER C. FEDERAL PROGRAMS

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

~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~32~~ ~~33~~ ~~34~~ ~~35~~ ~~36~~ ~~37~~ ~~38~~ ~~39~~ ~~40~~ ~~41~~ ~~42~~ ~~43~~ ~~44~~ ~~45~~ ~~46~~ ~~47~~ ~~48~~ ~~49~~ ~~50~~ ~~51~~ ~~52~~ ~~53~~ ~~54~~ ~~55~~ ~~56~~ ~~57~~ ~~58~~ ~~59~~ ~~60~~ ~~61~~ ~~62~~ ~~63~~ ~~64~~ ~~65~~ ~~66~~ ~~67~~ ~~68~~ ~~69~~ ~~70~~ ~~71~~ ~~72~~ ~~73~~ ~~74~~ ~~75~~ ~~76~~ ~~77~~ ~~78~~ ~~79~~ ~~80~~ ~~81~~ ~~82~~ ~~83~~ ~~84~~ ~~85~~ ~~86~~ ~~87~~ ~~88~~ ~~89~~ ~~90~~ ~~91~~ ~~92~~ ~~93~~ ~~94~~ ~~95~~ ~~96~~ ~~97~~ ~~98~~ ~~99~~ ~~100~~ ~~101~~ ~~102~~ ~~103~~ ~~104~~ ~~105~~ ~~106~~ ~~107~~ ~~108~~ ~~109~~ ~~110~~ ~~111~~ ~~112~~ ~~113~~ ~~114~~ ~~115~~ ~~116~~ ~~117~~ ~~118~~ ~~119~~ ~~120~~ ~~121~~ ~~122~~ ~~123~~ ~~124~~ ~~125~~ ~~126~~ ~~127~~ ~~128~~ ~~129~~ ~~130~~ ~~131~~ ~~132~~ ~~133~~ ~~134~~ ~~135~~ ~~136~~ ~~137~~ ~~138~~ ~~139~~ ~~140~~ ~~141~~ ~~142~~ ~~143~~ ~~144~~ ~~145~~ ~~146~~ ~~147~~ ~~148~~ ~~149~~ ~~150~~ ~~151~~ ~~152~~ ~~153~~ ~~154~~ ~~155~~ ~~156~~ ~~157~~ ~~158~~ ~~159~~ ~~160~~ ~~161~~ ~~162~~ ~~163~~ ~~164~~ ~~165~~ ~~166~~ ~~167~~ ~~168~~ ~~169~~ ~~170~~ ~~171~~ ~~172~~ ~~173~~ ~~174~~ ~~175~~ ~~176~~ ~~177~~ ~~178~~ ~~179~~ ~~180~~ ~~181~~ ~~182~~ ~~183~~ ~~184~~ ~~185~~ ~~186~~ ~~187~~ ~~188~~ ~~189~~ ~~190~~ ~~191~~ ~~192~~ ~~193~~ ~~194~~ ~~195~~ ~~196~~ ~~197~~ ~~198~~ ~~199~~ ~~200~~ ~~201~~ ~~202~~ ~~203~~ ~~204~~ ~~205~~ ~~206~~ ~~207~~ ~~208~~ ~~209~~ ~~210~~ ~~211~~ ~~212~~ ~~213~~ ~~214~~ ~~215~~ ~~216~~ ~~217~~ ~~218~~ ~~219~~ ~~220~~ ~~221~~ ~~222~~ ~~223~~ ~~224~~ ~~225~~ ~~226~~ ~~227~~ ~~228~~ ~~229~~ ~~230~~ ~~231~~ ~~232~~ ~~233~~ ~~234~~ ~~235~~ ~~236~~ ~~237~~ ~~238~~ ~~239~~ ~~240~~ ~~241~~ ~~242~~ ~~243~~ ~~244~~ ~~245~~ ~~246~~ ~~247~~ ~~248~~ ~~249~~ ~~250~~ ~~251~~ ~~252~~ ~~253~~ ~~254~~ ~~255~~ ~~256~~ ~~257~~ ~~258~~ ~~259~~ ~~260~~ ~~261~~ ~~262~~ ~~263~~ ~~264~~ ~~265~~ ~~266~~ ~~267~~ ~~268~~ ~~269~~ ~~270~~ ~~271~~ ~~272~~ ~~273~~ ~~274~~ ~~275~~ ~~276~~ ~~277~~ ~~278~~ ~~279~~ ~~280~~ ~~281~~ ~~282~~ ~~283~~ ~~284~~ ~~285~~ ~~286~~ ~~287~~ ~~288~~ ~~289~~ ~~290~~ ~~291~~ ~~292~~ ~~293~~ ~~294~~ ~~295~~ ~~296~~ ~~297~~ ~~298~~ ~~299~~ ~~300~~ ~~301~~ ~~302~~ ~~303~~ ~~304~~ ~~305~~ ~~306~~ ~~307~~ ~~308~~ ~~309~~ ~~310~~ ~~311~~ ~~312~~ ~~313~~ ~~314~~ ~~315~~ ~~316~~ ~~317~~ ~~318~~ ~~319~~ ~~320~~ ~~321~~ ~~322~~ ~~323~~ ~~324~~ ~~325~~ ~~326~~ ~~327~~ ~~328~~ ~~329~~ ~~330~~ ~~331~~ ~~332~~ ~~333~~ ~~334~~ ~~335~~ ~~336~~ ~~337~~ ~~338~~ ~~339~~ ~~340~~ ~~341~~ ~~342~~ ~~343~~ ~~344~~ ~~345~~ ~~346~~ ~~347~~ ~~348~~ ~~349~~ ~~350~~ ~~351~~ ~~352~~ ~~353~~ ~~354~~ ~~355~~ ~~356~~ ~~357~~ ~~358~~ ~~359~~ ~~360~~ ~~361~~ ~~362~~ ~~363~~ ~~364~~ ~~365~~ ~~366~~ ~~367~~ ~~368~~ ~~369~~ ~~370~~ ~~371~~ ~~372~~ ~~373~~ ~~374~~ ~~375~~ ~~376~~ ~~377~~ ~~378~~ ~~379~~ ~~380~~ ~~381~~ ~~382~~ ~~383~~ ~~384~~ ~~385~~ ~~386~~ ~~387~~ ~~388~~ ~~389~~ ~~390~~ ~~391~~ ~~392~~ ~~393~~ ~~394~~ ~~395~~ ~~396~~ ~~397~~ ~~398~~ ~~399~~ ~~400~~ ~~401~~ ~~402~~ ~~403~~ ~~404~~ ~~405~~ ~~406~~ ~~407~~ ~~408~~ ~~409~~ ~~410~~ ~~411~~ ~~412~~ ~~413~~ ~~414~~ ~~415~~ ~~416~~ ~~417~~ ~~418~~ ~~419~~ ~~420~~ ~~421~~ ~~422~~ ~~423~~ ~~424~~ ~~425~~ ~~426~~ ~~427~~ ~~428~~ ~~429~~ ~~430~~ ~~431~~ ~~432~~ ~~433~~ ~~434~~ ~~435~~ ~~436~~ ~~437~~ ~~438~~ ~~439~~ ~~440~~ ~~441~~ ~~442~~ ~~443~~ ~~444~~ ~~445~~ ~~446~~ ~~447~~ ~~448~~ ~~449~~ ~~450~~ ~~451~~ ~~452~~ ~~453~~ ~~454~~ ~~455~~ ~~456~~ ~~457~~ ~~458~~ ~~459~~ ~~460~~ ~~461~~ ~~462~~ ~~463~~ ~~464~~ ~~465~~ ~~466~~ ~~467~~ ~~468~~ ~~469~~ ~~470~~ ~~471~~ ~~472~~ ~~473~~ ~~474~~ ~~475~~ ~~476~~ ~~477~~ ~~478~~ ~~479~~ ~~480~~ ~~481~~ ~~482~~ ~~483~~ ~~484~~ ~~485~~ ~~486~~ ~~487~~ ~~488~~ ~~489~~ ~~490~~ ~~491~~ ~~492~~ ~~493~~ ~~494~~ ~~495~~ ~~496~~ ~~497~~ ~~498~~ ~~499~~ ~~500~~ ~~501~~ ~~502~~ ~~503~~ ~~504~~ ~~505~~ ~~506~~ ~~507~~ ~~508~~ ~~509~~ ~~510~~ ~~511~~ ~~512~~ ~~513~~ ~~514~~ ~~515~~ ~~516~~ ~~517~~ ~~518~~ ~~519~~ ~~520~~ ~~521~~ ~~522~~ ~~523~~ ~~524~~ ~~525~~ ~~526~~ ~~527~~ ~~528~~ ~~529~~ ~~530~~ ~~531~~ ~~532~~ ~~533~~ ~~534~~ ~~535~~ ~~536~~ ~~537~~ ~~538~~ ~~539~~ ~~540~~ ~~541~~ ~~542~~ ~~543~~ ~~544~~ ~~545~~ ~~546~~ ~~547~~ ~~548~~ ~~549~~ ~~550~~ ~~551~~ ~~552~~ ~~553~~ ~~554~~ ~~555~~ ~~556~~ ~~557~~ ~~558~~ ~~559~~ ~~560~~ ~~561~~ ~~562~~ ~~563~~ ~~564~~ ~~565~~ ~~566~~ ~~567~~ ~~568~~ ~~569~~ ~~570~~ ~~571~~ ~~572~~ ~~573~~ ~~574~~ ~~575~~ ~~576~~ ~~577~~ ~~578~~ ~~579~~ ~~580~~ ~~581~~ ~~582~~ ~~583~~ ~~584~~ ~~585~~ ~~586~~ ~~587~~ ~~588~~ ~~589~~ ~~590~~ ~~591~~ ~~592~~ ~~593~~ ~~594~~ ~~595~~ ~~596~~ ~~597~~ ~~598~~ ~~599~~ ~~600~~ ~~601~~ ~~602~~ ~~603~~ ~~604~~ ~~605~~ ~~606~~ ~~607~~ ~~608~~ ~~609~~ ~~610~~ ~~611~~ ~~612~~ ~~613~~ ~~614~~ ~~615~~ ~~616~~ ~~617~~ ~~618~~ ~~619~~ ~~620~~ ~~621~~ ~~622~~ ~~623~~ ~~624~~ ~~625~~ ~~626~~ ~~627~~ ~~628~~ ~~629~~ ~~630~~ ~~631~~ ~~632~~ ~~633~~ ~~634~~ ~~635~~ ~~636~~ ~~637~~ ~~638~~ ~~639~~ ~~640~~ ~~641~~ ~~642~~ ~~643~~ ~~644~~ ~~645~~ ~~646~~ ~~647~~ ~~648~~ ~~649~~ ~~650~~ ~~651~~ ~~652~~ ~~653~~ ~~654~~ ~~655~~ ~~656~~ ~~657~~ ~~658~~ ~~659~~ ~~660~~ ~~661~~ ~~662~~ ~~663~~ ~~664~~ ~~665~~ ~~666~~ ~~667~~ ~~668~~ ~~669~~ ~~670~~ ~~671~~ ~~672~~ ~~673~~ ~~674~~ ~~675~~ ~~676~~ ~~677~~ ~~678~~ ~~679~~ ~~680~~ ~~681~~ ~~682~~ ~~683~~ ~~684~~ ~~685~~ ~~686~~ ~~687~~ ~~688~~ ~~689~~ ~~690~~ ~~691~~ ~~692~~ ~~693~~ ~~694~~ ~~695~~ ~~696~~ ~~697~~ ~~698~~ ~~699~~ ~~700~~ ~~701~~ ~~702~~ ~~703~~ ~~704~~ ~~705~~ ~~706~~ ~~707~~ ~~708~~ ~~709~~ ~~710~~ ~~711~~ ~~712~~ ~~713~~ ~~714~~ ~~715~~ ~~716~~ ~~717~~ ~~718~~ ~~719~~ ~~720~~ ~~721~~ ~~722~~ ~~723~~ ~~724~~ ~~725~~ ~~726~~ ~~727~~ ~~728~~ ~~729~~ ~~730~~ ~~731~~ ~~732~~ ~~733~~ ~~734~~ ~~735~~ ~~736~~ ~~737~~ ~~738~~ ~~739~~ ~~740~~ ~~741~~ ~~742~~ ~~743~~ ~~744~~ ~~745~~ ~~746~~ ~~747~~ ~~748~~ ~~749~~ ~~750~~ ~~751~~ ~~752~~ ~~753~~ ~~754~~ ~~755~~ ~~756~~ ~~757~~ ~~758~~ ~~759~~ ~~760~~ ~~761~~ ~~762~~ ~~763~~ ~~764~~ ~~765~~ ~~766~~ ~~767~~ ~~768~~ ~~769~~ ~~770~~ ~~771~~ ~~772~~ ~~773~~ ~~774~~ ~~775~~ ~~776~~ ~~777~~ ~~778~~ ~~779~~ ~~780~~ ~~781~~ ~~782~~ ~~783~~ ~~784~~ ~~785~~ ~~786~~ ~~787~~ ~~788~~ ~~789~~ ~~790~~ ~~791~~ ~~792~~ ~~793~~ ~~794~~ ~~795~~ ~~796~~ ~~797~~ ~~798~~ ~~799~~ ~~800~~ ~~801~~ ~~802~~ ~~803~~ ~~804~~ ~~805~~ ~~806~~ ~~807~~ ~~808~~ ~~809~~ ~~810~~ ~~811~~ ~~812~~ ~~813~~ ~~814~~ ~~815~~ ~~816~~ ~~817~~ ~~818~~ ~~819~~ ~~820~~ ~~821~~ ~~822~~ ~~823~~ ~~824~~ ~~825~~ ~~826~~ ~~827~~ ~~828~~ ~~829~~ ~~830~~ ~~831~~ ~~832~~ ~~833~~ ~~834~~ ~~835~~ ~~836~~ ~~837~~ ~~838~~ ~~839~~ ~~840~~ ~~841~~ ~~842~~ ~~843~~ ~~844~~ ~~845~~ ~~846~~ ~~847~~ ~~848~~ ~~849~~ ~~850~~ ~~851~~ ~~852~~ ~~853~~ ~~854~~ ~~855~~ ~~856~~ ~~857~~ ~~858~~ ~~859~~ ~~860~~ ~~861~~ ~~862~~ ~~863~~ ~~864~~ ~~865~~ ~~866~~ ~~867~~ ~~868~~ ~~869~~ ~~870~~ ~~871~~ ~~872~~ ~~873~~ ~~874~~ ~~875~~ ~~876~~ ~~877~~ ~~878~~ ~~879~~ ~~880~~ ~~881~~ ~~882~~ ~~883~~ ~~884~~ ~~885~~ ~~886~~ ~~887~~ ~~888~~ ~~889~~ ~~890~~ ~~891~~ ~~892~~ ~~893~~ ~~894~~ ~~895~~ ~~896~~ ~~897~~ ~~898~~ ~~899~~ ~~900~~ ~~901~~ ~~902~~ ~~903~~ ~~904~~ ~~905~~ ~~906~~ ~~907~~ ~~908~~ ~~909~~ ~~910~~ ~~911~~ ~~912~~ ~~913~~ ~~914~~ ~~915~~ ~~916~~ ~~917~~ ~~918~~ ~~919~~ ~~920~~ ~~921~~ ~~922~~ ~~923~~ ~~924~~ ~~925~~ ~~926~~ ~~927~~ ~~928~~ ~~929~~ ~~930~~ ~~931~~ ~~932~~ ~~933~~ ~~934~~ ~~935~~ ~~936~~ ~~937~~ ~~938~~ ~~939~~ ~~940~~ ~~941~~ ~~942~~ ~~943~~ ~~944~~ ~~945~~ ~~946~~ ~~947~~ ~~948~~ ~~949~~ ~~950~~ ~~951~~ ~~952~~ ~~953~~ ~~954~~ ~~955~~ ~~956~~ ~~957~~ ~~958~~ ~~959~~ ~~960~~ ~~961~~ ~~962~~ ~~963~~ ~~964~~ ~~965~~ ~~966~~ ~~967~~ ~~968~~ ~~969~~ ~~970~~ ~~971~~ ~~972~~ ~~973~~ ~~974~~ ~~975~~ ~~976~~ ~~977~~ ~~978~~ ~~979~~ ~~980~~ ~~981~~ ~~982~~ ~~983~~ ~~984~~ ~~985~~ ~~986~~ ~~987~~ ~~988~~ ~~989~~ ~~990~~ ~~991~~ ~~992~~ ~~993~~ ~~994~~ ~~995~~ ~~996~~ ~~997~~ ~~998~~ ~~999~~ ~~1000~~ ~~1001~~ ~~1002~~ ~~1003~~ ~~1004~~ ~~1005~~ ~~1006~~ ~~1007~~ ~~1008~~ ~~1009~~ ~~1010~~ ~~1011~~ ~~1012~~ ~~1013~~ ~~1014~~ ~~1015~~ ~~1016~~ ~~1017~~ ~~1018~~ ~~1019~~ ~~1020~~ ~~1021~~ ~~1022~~ ~~1023~~ ~~1024~~ ~~1025~~ ~~1026~~ ~~1027~~ ~~1028~~ ~~1029~~ ~~1030~~ ~~1031~~ ~~1032~~ ~~1033~~ ~~1034~~ ~~1035~~ ~~1036~~ ~~1037~~ ~~1038~~ ~~1039~~ ~~1040~~ ~~1041~~ ~~1042~~ ~~1043~~ ~~1044~~ ~~1045~~ ~~1046~~ ~~1047~~ ~~1048~~ ~~1049~~ ~~1050~~ ~~1051~~ ~~1052~~ ~~1053~~ ~~1054~~ ~~1055~~ ~~1056~~ ~~1057~~ ~~1058~~ ~~1059~~ ~~1060~~ ~~1061~~ ~~1062~~ ~~1063~~ ~~1064~~ ~~1065~~ ~~1066~~ ~~1067~~ ~~1068~~ ~~1069~~ ~~1070~~ ~~1071~~ ~~1072~~ ~~1073~~ ~~1074~~ ~~1075~~ ~~1076~~ ~~1077~~ ~~1078~~ ~~1079~~ ~~1080~~ ~~1081~~ ~~1082~~ ~~1083~~ ~~1084~~ ~~1085~~ ~~1086~~ ~~1087~~ ~~1088~~ ~~1089~~ ~~1090~~ ~~1091~~ ~~1092~~ ~~1093~~ ~~1094~~ ~~1095~~ ~~1096~~ ~~1097~~ ~~1098~~ ~~1099~~ ~~1100~~ ~~1101~~ ~~1102~~ ~~1103~~ ~~1104~~ ~~1105~~ ~~1106~~ ~~1107~~ ~~1108~~ ~~1109~~ ~~1110~~ ~~1111~~ ~~1112~~ ~~1113~~ ~~1114~~ ~~1115~~ ~~1116~~ ~~1117~~ ~~1118~~ ~~1119~~ ~~1120~~ ~~1121~~ ~~1122~~ ~~1123~~ ~~1124~~ ~~1125~~ ~~1126~~ ~~1127~~ ~~1128~~ ~~1129~~ ~~1130~~ ~~1131~~ ~~1132~~ ~~1133~~ ~~1134~~ ~~1135~~ ~~1136~~ ~~1137~~ ~~1138~~ ~~1139~~ ~~1140~~ ~~1141~~ ~~1142~~ ~~1143~~ ~~1144~~ ~~1145~~ ~~1146~~ ~~1147~~ ~~1148~~ ~~1149~~ ~~1150~~ ~~1151~~ ~~1152~~ ~~1153~~ ~~1154~~ ~~1155~~ ~~1156~~ ~~1157~~ ~~1158~~ ~~1159~~ ~~1160~~ ~~1161~~ ~~1162~~ ~~1163~~ ~~1164~~ ~~1165~~ ~~1166~~ ~~1167~~ ~~1168~~ ~~1169~~ ~~1170~~ ~~1171~~ ~~1172~~ ~~1173~~ ~~1174~~ ~~1175~~ ~~1176~~ ~~1177~~ ~~1178~~ ~~1179~~ ~~1180~~ ~~1181~~ ~~1182~~ ~~1183~~ ~~1184~~ ~~1185~~ ~~1186~~ ~~1187~~ ~~1188~~ ~~1189~~ ~~1190~~ ~~1191~~ ~~1192~~ ~~1193~~ ~~1194~~ ~~1195~~ ~~1196~~ ~~1197~~ ~~1198~~ ~~1199~~ ~~1200~~ ~~1201~~ ~~1202~~ ~~1203~~ ~~1204~~ ~~1205~~ ~~1206~~ ~~1207~~ ~~1208~~ ~~1209~~ ~~1210~~ ~~1211~~ ~~1212~~ ~~1213~~ ~~1214~~ ~~1215~~ ~~1216~~ ~~1217~~ ~~1218~~ ~~1219~~ ~~1220~~ ~~1221~~ ~~1222~~ ~~1223~~ ~~1224~~ ~~1225~~ ~~1226~~ ~~1227~~ ~~1228~~ ~~1229~~ ~~1230~~ ~~1231~~ ~~1232~~ ~~1233~~ ~~1234~~ ~~1235~~ ~~1236~~ ~~1237~~ ~~1238~~ ~~1239~~ ~~1240~~ ~~1241~~ ~~1242~~ ~~1243~~ ~~1244~~ ~~1245~~ ~~1246~~ ~~1247~~ ~~1248~~ ~~1249~~ ~~1250~~ ~~1251~~ ~~1252~~ ~~1253~~ ~~1254~~ ~~1255~~ ~~1256~~ ~~1257~~ ~~1258~~ ~~1259~~ ~~1260~~ ~~1261~~ ~~1262~~ ~~1263~~ ~~1264~~ ~~1265~~ ~~1266~~ ~~1267~~ ~~1268~~ ~~1269~~ ~~1270~~ ~~1271~~ ~~1272~~ ~~1273~~ ~~1274~~ ~~1275~~ ~~1276~~ ~~1277~~ ~~1278~~ ~~1279~~ ~~1280~~ ~~1281~~ ~~1282~~ ~~1283~~ ~~1284~~ ~~1285~~ ~~1286~~ ~~1287~~ ~~1288~~ ~~1289~~ ~~1290~~ ~~1291~~ ~~1292~~ ~~1293~~ ~~1294~~ ~~1295~~ ~~1296~~ ~~1297~~ ~~1298~~ ~~1299~~ ~~1300~~ ~~1301~~ ~~1302~~ ~~1303~~ ~~1304~~ ~~1305~~ ~~1306~~ ~~1307~~ ~~1308~~ ~~1309~~ ~~1310~~ ~~1311~~ ~~1312~~ ~~1313~~ ~~1314~~ ~~1315~~ ~~1316~~ ~~1317~~ ~~1318~~ ~~1319~~ ~~1320~~ ~~1321~~ ~~1322~~ ~~1323~~ ~~1324~~ ~~1325~~ ~~1326~~ ~~1327~~ ~~1328~~ ~~1~~

1           ~~[(3) foster the development of local, coordinated~~  
2 ~~public transit-human service transportation plans from which~~  
3 ~~JARC projects are derived;]~~

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

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

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

12           ~~[(e) Project types.]~~

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

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

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

12                   ~~[(A) fuel;]~~

13                   ~~[(B) oil;]~~

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D



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

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

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

26

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [     ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

22

23 §31.30. Section 5339 Grant Program.

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

16 (1) cash from state or local governments;

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

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

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

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

25 (6) transportation development credits.

26

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

1 §31.31. Section 5310 Grant Program.

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

13           (c) Department role.

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

16                   (A) a rural area;

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

24 (d) Eligible recipients.

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

9 (2) Capital expenses.

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

12 (i) buses;

13 (ii) vans or other smaller accessible

14 [~~paratransit~~] vehicles;

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

17 (iv) mobility management;

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

20 (vi) radios and communication equipment;

21 (vii) vehicle shelters;

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

1 (xi) initial component installation costs;  
2 (xii) vehicle procurement, testing,  
3 inspection, and acceptance costs;

4 (xiii) vehicle extended warranties that do  
5 not exceed industry standards;

6 (xiv) the lease of equipment, provided that  
7 the local recipient determines a lease is more cost effective  
8 than the purchase of equipment after considering management  
9 efficiency, availability of equipment, staffing capabilities,  
10 and guidelines on capital leases as contained in 49 C.F.R. Part  
11 639;

12 (xv) transit-related intelligent  
13 transportation systems;

14 (xvi) the introduction of new technology,  
15 through innovative and improved products, into mass  
16 transportation; and

17 (xvii) the acquisition of preventive  
18 maintenance services and vehicle parts associated with  
19 preventive maintenance services.

20 (B) For reimbursement:

21 (i) federal funds may be used to defray up  
22 to 80 percent of the cost of eligible capital expenditures;

23 (ii) the federal share may increase to up to  
24 85 percent of the net project cost for a project that involves  
25 acquiring vehicles for the purpose of complying with the  
26 Americans with Disabilities Act or the Clean Air Act; and

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

5 (3) Operating expenses.

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

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

12 (f) Local share requirements.

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

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

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

18           (4) Residual funds.

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15  
16 §31.36. Section 5311 Grant Program.

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [    ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

19 (2) Capital expenses.

20 (A) Eligible items include:

21 (i) buses;

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

24 (iii) radios and communications equipment;

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

22 (xxi) crime prevention and security.

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

4 (C) For reimbursement:

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

25 (B) evaluation of previous planning projects;

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

8 (f) Local share requirements.

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

7 (C) Funding stability.

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

26 (5) Adjustments to allocation.

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 8/2/2017 3:08 PM

Exhibit D

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

1 SUBCHAPTER D. PROGRAM ADMINISTRATION

2 §31.42. Standard Federal Requirements.

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

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

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

13

14 §31.43. Contracting Requirements.

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 7/24/2017 2:13 PM

Exhibit E

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

9

10 §31.44. Procurement Requirements.

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

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

21 (1) Goods, services and equipment purchases.

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 7/24/2017 2:13 PM

Exhibit E

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

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

19 (2) Real property.

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

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

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

8 (c) Department role.

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

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

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

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

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

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

10

11 §31.45. Accounting and Financial Recordkeeping Requirements.

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 7/24/2017 2:13 PM

Exhibit E

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

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

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

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

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

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

17

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 7/24/2017 2:13 PM

Exhibit E

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

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

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

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

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

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

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

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

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

17

18 §31.48. Project Oversight.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 7/24/2017 2:13 PM

Exhibit E

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

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

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

18 (2) Drugs and alcohol.

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 7/24/2017 2:13 PM

Exhibit E

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

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

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

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

24 (6) Incidental vehicle use. A vehicle purchased with  
25 federal or state funds may be used for incidental uses that do  
26 not conflict with the primary purposes for which the vehicle was

NOTE: Additions underlined

Deletions in [ ]

GCD: 7/24/2017 2:13 PM

Exhibit E

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

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

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

1 SUBCHAPTER E. PROPERTY MANAGEMENT STANDARDS

2 §31.50. Recordkeeping and Inventory Requirements.

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

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

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

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

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

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

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

20

21 §31.57. Disposition.

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

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

NOTE: Additions underlined

Deletions in [ ]

GCD: 7/31/2017 11:48 AM

Exhibit F

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

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

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

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

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

4 (1) Disposition criteria.

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

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

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

13 (2) Distribution of disposition proceeds.

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

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

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

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

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

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