



Public Transportation Division

FY 2023 State Management Plan

FTA Section 5310, 5311, and 5339 Grant Programs

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Chapter 1 – Introduction

State Management Plan (SMP) Purpose

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

The State Management Plan (SMP) is a document that describes TxDOT's policies and procedures for administering the state-managed portions of FTA's Section 5310, 5311, and 5339 programs in accordance with Fixing America's Surface Transportation Act (FAST Act) which was implemented in 2015 and replaced with Infrastructure Investment and Jobs Act of 2021 (IIJA). PTN is required to have an approved SMP on file with the FTA Region 6 office in Fort Worth, Texas and to update it regularly to incorporate changes in program management or new requirements.

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

Texas Department of Transportation Mission Statement & Goals

Values, Vision, Mission, Goals and Objectives

Values:

People

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

Accountability

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

Trust

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

Honesty

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

Vision:

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

Mission:

Connecting you with Texas.

Goals and Objectives:

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

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

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

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

Foster Stewardship – Ensure efficient use of state resources.

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

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

- Mitigate congestion.

- Enhance connectivity and mobility
- Improve the reliability of our transportation system.
- Facilitate the movement of freight and international trade.

Foster economic competitiveness through infrastructure investments. Preserve our Assets – Deliver preventive maintenance for TxDOT’s system and capital assets to protect our investments.

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

Promote Safety - Champion a culture of safety.

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

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

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

Public Transportation Division

Division Focus

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

Division Goals and Objectives

1. Distribute grant funds to support mobility and congestion-relief programs
 - Objective: Maximize the combination of formula and discretionary grant funds available to Texas.
 - Objective: Timely distribution of funds to eligible applicants based on objective criteria.
2. Ensure compliance with funding program requirements

- Objective: Maintain a monitoring program that assures grant funds are utilized in accordance with federal and state requirements.
3. Promote training, coordinated planning, partnerships, and best practices
 - Objective: Strategic development of the public transportation industry through training, conferences, technical assistance, leadership growth, and meetings.
 4. Perform FTA State Safety program functions.

Process for Establishing Long-term Goals

In accordance with Texas Transportation Code Section 201.601 and Title 49 U.S.C. Section 5304(f), TxDOT develops a Statewide Transportation Plan (STP), which includes public transportation, that covers a period of at least 30 years. The current long-range plan, the *Texas Transportation Plan 2050* (TTP 2050), contains specific, long-term transportation goals for the state with formal participation by other state agencies, regional and local governments, local transportation entities, and the general public.

The planning process includes the development of separate, but interrelated long-, mid-, and short-range planning and programming documents by TxDOT, Metropolitan Planning Organizations (MPOs), and communities, as well as city, county, transit, stakeholder, and private company officials. The TTP 2050 guides planning and programming decisions for the development, management, and operation of the statewide, multimodal transportation system in Texas until the year 2050. The long-range planning documents identify projects, strategies, and transportation needs. The mid-range programming documents contain a listing of prioritized projects expected to be ready for implementation in identified future years. The short-range programming documents include a listing of prioritized projects that are likely to be implemented. Underlying the planning and programming process is the need to develop reliable financial assumptions and forecasts for common use by all participants at all levels of the process.

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

The TTP 2050:

- Covers a period of at least 20 years

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

The long-term goals from the TTP 2050 form the basis for TxDOT's long-term goals and objectives regarding the Section 5310 and Section 5311 programs for the Public Transportation Division, rural transit districts, and the lead agencies responsible for regionally coordinated public transportation planning in Texas.

General Program Roles and Responsibilities

Federal Transit Administration

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

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

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

Authority

Most federal transit laws are codified in Title 49 U.S.C. Chapter 53. Authorizing legislation is substantive legislation enacted by Congress that establishes or continues the legal operation of a federal program or agency. FTA's most recent authorizing legislation is the Infrastructure Investment and Jobs Act of 2021 (IIJA).

Texas Transportation Commission

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

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

Public Transportation Advisory Committee (PTAC)

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

- Advise the commission on the needs of the state's public transportation providers
- Advise the commission on the allocation of public transportation funds
- Comment on rules involving public transportation

TxDOT's Public Transportation Division (PTN)

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

- Develop and implement public transportation programs throughout the rural and small urbanized areas (defined by the U.S. Census Bureau) of the state
- Ensure adherence to federal program guidelines by all subrecipients through periodic monitoring and oversight
- Notify eligible and/or potential local entities of the availability of programs
- Develop project selection criteria
- Solicit applications
- Ensure fair and equitable distribution of program funds
- Ensure the maximum feasible coordination of transit resources at the state and local level
- Ensure a planning process whereby private transit and paratransit operators are provided an opportunity to participate to the maximum extent feasible
- Manage and process all grant agreements, amendments, and budget revisions
- Ensure projects are placed in the district and MPO's Transportation Improvement Plans (TIP)
- Serve as the direct contact point for applicants, subrecipients, and the public
- Provide technical assistance to subrecipients

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

- Internet websites
- Conferences
- Semi-annual meetings
- Workshops
- Manuals
- Video conferencing and webinars
- Training (Specialized)
- Specific system and topic assistance through the Texas A&M Transportation Institute (TTI)

Authority

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

TxDOT Divisions’ Roles in Public Transportation

Transportation Planning and Programming Division

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

Civil Rights Division

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

Compliance Division

The Compliance Division (CMP) assists PTN with annual audit compliance, including receipt and review of annual subrecipient audits, issuance of management decisions to PTN

subrecipients, and resolution of audit findings. The division is also responsible for reviewing PTN subrecipients internal ethics and compliance program, at the department's discretion, in accordance with 43 TAC 10.51.

Financial Management Division

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

Contract Services Division

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

General Counsel Division

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

Other Divisions

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

Other State Partners

Texas A&M Transportation Institute

The Texas A&M Transportation Institute (TTI) has a contract with TxDOT for developing the long-range plan (TTP 2050). This includes assistance in forecasting public transportation needs in rural and urban areas. TTI also assists PTN in collecting and reporting transit operating data to the National Transit Database (NTD).

State Auditor's Office

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

Texas Legislature

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

Texas Comptroller of Public Accounts

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

Transit Agencies

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

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

Metropolitan Planning Organizations (MPO)

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

- Establish a local forum for transportation decision making
- Evaluate transportation alternatives
- Develop and update a long-range transportation plan
- Develop a TIP (Transportation Improvement Plan)
- Public involvement

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

Statewide Coordination of Public Transportation

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

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

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

Summary of State Management Plan Development

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

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

Texas Department of Transportation

Public Transportation Division

125 E. 11th Street

Austin, Texas 78701-2483

Email: PTN_ProgramMgmt@TxDOT.gov

Include in the subject line: State Management Plan comments

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

Program Purpose and Authority

The Federal Transit Administration (FTA) the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, codified at 49 U.S.C. 5310 (Section 5310), is authorized under the provisions set forth in the FAST ACT and Infrastructure Investment and Jobs Act (IIJA). The Texas Department of Transportation (TxDOT) has been designated by the governor to administer the Section 5310 program. The Commission awards federal funds under the FTA Section 5310 program to Texas' to small urban and rural transit districts and ensures grant funds are distributed fairly and equitably within the state. The Public Transportation Division (PTN), through its local Public Transportation Coordinators (PTCs), oversee the daily administration of Section 5310 project grant agreements.

The Section 5310 program administered by TxDOT provides financial assistance for the support of public transportation services, in small urbanized (50,000-200,000), and rural (under 50,000) according to the US Census. Section 5310 funds can be used for the cost of transit operations and purchase of capital equipment to aid in provision of transit services planned, designed, and carried out to meet the special transportation needs of seniors and individuals with disabilities in urban and rural areas, as well as provide funds for state-level administration. Eligible projects include both “traditional” capital investment and “nontraditional” investment beyond the Americans with Disabilities Act (ADA) complementary paratransit services.

The policies and procedures in this State Management Plan (SMP) are the same as those in the 43 TAC 31.31 and are augmented by additional federally required policies and procedures in the most current FTA regulations and circulars.

Program Goals and Objectives

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

TxDOT's goal in administering the Section 5310 program is to promote the availability of cost-effective, efficient, and coordinated passenger transportation services planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable, using

the most efficient combination of financial and other resources. To achieve this goal, the objectives of TxDOT are to:

- Promote the development and maintenance of a network of transportation services for seniors and individuals with disabilities throughout the state, in partnership with local stakeholders and with priority on sustaining existing service coverage
- Fully integrate the Section 5310 program with other federal, state, and local resources and programs that are designed to serve similar populations
- Promote public transportation projects that exceed the requirements of the Americans with Disabilities Act (ADA)
- Promote public transportation projects that decrease the reliance of individuals with disabilities on ADA complementary paratransit services
- Promote and encourage local participation, especially by seniors and individuals with disabilities or their advocates, in decision-making
- Improve the efficiency, effectiveness, and safety of Section 5310 transit systems through the provision of technical assistance
- Include private sector operators in the overall plan to provide transportation for seniors and individuals with disabilities

Program Roles and Responsibilities

Public Transportation Division (PTN)

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

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

Subrecipients

The general program roles and responsibilities listed in 43 TAC 31.31 recognize Section 5310 subrecipients as partners who shall retain control of daily operations. The Obligation Certificate, signed by the subrecipient, acknowledging organizational responsibilities to the program is included within the eGrants system application process.

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

Coordination

State Agency Level Coordination

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

State agencies with which TxDOT may coordinate include:

- [Texas Health and Human Services Commission](#), consisting of:
 - Centers for Independent Living
 - Aging and Disability Resource Centers
 - Department of State Health Services
- [Texas Workforce Commission](#)
- [Texas Veterans Commission](#)
- [Texas Education Agency](#)

Project-Level Coordination

PTN, in conformance with Title 49 U.S.C. 5310, requires that projects selected for funding under this program are included in a locally developed, coordinated public transit-human service transportation plan and the plan was developed and approved through a process that included participation by seniors; individuals with disabilities; representatives of public, private, nonprofit transportation and human service providers; and other members of the public. A portion of the state's Section 5304 funds are allocated each fiscal year to a discretionary program administered for regional coordinated public transportation planning activities of the state's twenty-four (24) regional planning districts. These coordinated planning activities may result in transportation services and projects funded by Section 5310 grants.

PTN encourages coordination at the Section 5310 project level by establishing, after consultation with local stakeholders, processes for local planning and project development and public outreach. Per 43 TAC 31.31, to streamline decision-making processes and maximize coordination opportunities, TxDOT may choose to combine contiguous department district boundaries for stakeholder engagement, project selection, and public outreach. During the pandemic public outreach was conducted virtually. For public workshops, information was provided via flyers and on TxDOT's website on how to participate and make arrangements for special accommodations. The stakeholder groups should include representatives of the following groups:

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

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

Eligible Subrecipients

Title 49 U.S.C. 5310 and FTA Circular 9070.1G define eligible Section 5310 subrecipients.

Subrecipients are divided into two categories, those eligible for traditional Section 5310 capital funds and those eligible recipients for other 5310 projects

Subrecipients eligible for traditional Section 5310 funds are:

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

Subrecipients eligible for other section 5310 projects:

1. A private nonprofit organization

2. A state or local government authority
3. Operator of public transportation that receives a Section 5310 grant indirectly through a recipient
4. Private tax companies that provide shared-ride tax service to the public or to special categories of users, such as seniors or individuals with disabilities, on a regular basis are also eligible recipients.

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

Eligible Activities

Administrative Expenses

Subrecipient administrative expenses are not eligible for reimbursement.

Capital Expenses

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

- Buses
- Vans or other paratransit vehicles
- Acquisition of transportation services under a contract, lease, or other arrangement
- Mobility management
- Curb cuts, sidewalks, pedestrian signals, or other accessible features
- Radios and communication equipment
- Vehicle shelters
- Wheelchair lifts, ramps and securement devices
- Vehicle rehabilitation, remanufacture, or overhaul
- Computer hardware and software
- Initial vehicle component installation costs
- Vehicle procurement, testing, inspection, and acceptance costs
- Vehicle extended warranties that do not exceed industry standards
- Lease of equipment
- Transit-related intelligent transportation systems (ITS)

- Introduction of new technology, through innovative and improved products, into mass transportation
- Acquisition of preventive maintenance services and vehicle parts associated with preventive maintenance services of vehicles used for Section 5310 services that were purchased with Section 5310 funds or those purchased with funding from the former New Freedom Section 5316 program

Operating Expenses

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

Indirect Costs

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

Local Share and Local Funding Requirements

Capital Expenses

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

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

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

Operating Expenses

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

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

Eligible Sources of Local Share

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

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

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

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

Project Selection Criteria and Method of Distributing Funds

Project Selection Criteria

To encourage local participation in the development of project priorities, TxDOT will consult with stakeholder organizations, including local governments, MPOs within small urban areas, non-profit organizations, and for-profit entities. Department personnel will ensure public outreach is conducted to create awareness of the grant program and receive stakeholder comments and recommendations. Refer to section: Project-level Coordination, regarding how outreach is conducted.

In an effort to streamline decision-making processes and maximize coordination opportunities, TxDOT may choose to combine contiguous department district boundaries for stakeholder engagement, project selection, and public outreach. The stakeholder groups should include representatives of the following groups, further defined in FTA Circular 9070.1G, or its latest version:

1. Transportation Partners
2. Passengers and Advocates
3. Human Services and Workforce Agencies
4. Others, such as emergency management agencies, economic development organizations, and faith- and community-based organizations

TxDOT will consider the program goals and objectives and consider projects that:

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

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

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

The following requirements apply to all projects recommended for funding:

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

include resolutions by local governing bodies and endorsement letters from other organizations or individuals.

- The project must be included in the coordinated public transit-human service transportation plan.

Method of Distributing Funds

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

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

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

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

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

Annual Program of Projects Development and Approval Process

Application Process

To apply for the annual Program of Projects (POP), interested parties must submit an application for Section 5310 grant funds within the eGrants system by the deadline specified by TxDOT. Applications are submitted every two years for projects covering up to two years. The application must document the need and demand for passenger transportation services for seniors and individuals with disabilities and demonstrate inclusion of the project in the coordinated public transit-human service transportation plan.

Timetable for Soliciting, Reviewing and Approving Local Projects

Applications for the POP follow the general schedule of being posted every two years. Proposals are due in the winter and awards are made in late spring to early summer of the following year.

After the application submission deadline, PTN will review all funding requests for completeness and compliance with all statutory and program administrative requirements. A scoring committee will evaluate applications using a methodology developed in accordance with program requirements. The final results of the scoring process will be submitted to PTN Headquarters, who will review the results with the scoring committee and determine recommended awards. While the entire project proposal is being evaluated for funding, only one year of funding is awarded at a time.

Following the commission award in late spring or early summer, TxDOT will negotiate a project grant agreement with the selected local entities and organizations to implement the projects selected for funding.

In the year between the program calls, applicants will be allowed to submit an updated budget for the second year of the project. PTN reviews the updated budget along with the first year's performance to determine the second year's award amount.

State Administration and Technical Assistance

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

Private Sector Participation

43 TAC 31.31(d)(2) states that for an area not covered by a transit provider or for which the existing provider is not willing or able to provide the transportation, a private organization may be selected as an alternate recipient to receive Section 5310 funds.

Private taxi companies that provide shared-ride taxi service to the public or to special categories of users (such as seniors or individuals with disabilities) on a regular basis are also eligible alternate recipients. TxDOT's regionally coordinated transportation planning program, which often results in projects funded by Section 5310, requires consultation and active participation by private providers of public transportation as stakeholders.

Taxi companies that provide only exclusive-ride service are not eligible subrecipients; however, they may participate in the Section 5310 program as contractors. Exclusive-ride taxi companies may receive Section 5310 funds to purchase accessible taxis under contract with an eligible subrecipient. Services contracted from either shared ride or exclusive ride taxi companies should be obtained by subrecipients via the applicable procurement rules.

Program Measures

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

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

1. Gaps in Service Filled: Provision of transportation options that would not otherwise be available for seniors and individuals with disabilities measured in numbers of

seniors and individuals with disabilities afforded mobility that they would not have without program support.

2. Ridership: Actual or estimated number of rides (as measured by one-way trips) provided annually for seniors or individuals with disabilities on Section 5310 supported vehicles and services.
3. Physical Improvements: Additions or changes to environmental infrastructure (e.g. transportation facilities, sidewalks, etc.), technology, and vehicles that impact availability of transportation services as a result of a project implemented in the current reporting year.

Administrative Requirements for Section 5310 Program

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

Special Section on FTA 5310 Emergency Relief Funding to Address the Economic Impact of the Coronavirus (COVID-19) Public Health Emergency

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

The public health pandemic spread throughout the nation in 2020, greatly impacting the transit industry and its attempts to respond. The United States Congress passed the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA) on December 27, 2020, and the American Rescue Plan Act of 2021 (ARP) on March 10, 2021, both of which authorized funding under the FTA Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities program (49 U.S.C. §5310) to prevent, prepare for, and respond to the Coronavirus (COVID-19). The combined emergency relief funds for Texas was apportioned at \$2,721,139.00, with 100% federal participation and no local match requirement.

Generally, FTA considered all expenses normally eligible under 5310 (incurred after January 20, 2020) to be eligible under CRRSAA and ARP. FTAs objective of using funds was to provide for payroll and operations to the fullest extent possible (the recipient must certify that no employees have been furloughed if funds are to be used otherwise.)

When considering distribution of funds for the 5310 Program, operating is the only Activity Line Item (ALI) in which TxDOT requires agencies to provide 50% local match, all other ALI's receive TDC for match. PTN concluded that using the CRRSAA/ARP funds to provide 100%

funding to the agencies who demonstrated the need for operating funds during the previous call for projects would be the most fair and equitable approach, while achieving the FTA goals to prioritize operational needs.

As a part of the ongoing relief funding, FTA allowed an exception when applying for the FY21 apportionment. PTN was allowed to use unobligated funds for the FY 2021 apportionment to be obligated at 100% Federal Funds, this enabled 5310 recipients to forgo the normal match requirements.

TIP & STIP Requirements

CRRSAA & ARP Act funds used to pay for operating expenses do not need to be included in the Transportation Improvement Program (TIP) or Statewide Transportation Improvement Program (STIP). See 23 CFR §§ 450.326(e)(5), 450.218(g)(5).

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

Program Purpose and Authority

The FTA Formula Grants for Rural Areas Program, codified at 49 U.S.C. 5311 (Section 5311), is authorized under the provisions set forth in the FAST Act and the Infrastructure Investment and Jobs Act (IIJA), enacted November 15, 2021. Under this program, funding assistance is provided for public transportation in rural areas. The Commission awards federal funds under the FTA Section 5311 program to Texas' rural transit districts and ensures grant funds are distributed fairly and equitably within the state. TxDOT has been designated by the governor to administer the Section 5311 program. PTN, through its local PTCs, administers the local project selection process. PTCs also oversee the daily administration of Section 5311 project grant agreements.

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

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

Note: At its October 2022 meeting, the Texas Transportation Commission adopted updates to 43 TAC 31.36 to address an increase in Section 5311 Grant Program funding at the federal level from the Infrastructure Investment and Jobs Act (IIJA), address census impacts on funding allocations, and provide flexibility in distributing federal emergency relief funding. Updates are effective November 16, 2022.

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

- Section 5311 Rural Formula Program
- Section 5311 Rural Discretionary Program
- Section 5311(f) Intercity Bus (ICB) Program
- Section 5311(b)(3) Rural Technical Assistance Program (RTAP)

Program Goals and Objectives

FTA Goals

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

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

TxDOT's Goal

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

- Promoting the development and maintenance of a network of general public transportation services, including intercity services, in rural areas throughout the state, in partnership with local officials;
- Fully integrating the Section 5311 program with other federal, state, and local resources that are designed to serve rural populations
- Improving the efficiency, effectiveness, and safety of Section 5311 systems through the provision of technical assistance
- Including private sector operators, in the overall plan, to provide public transportation services, and

- Minimizing negative impacts from changes in public transportation district boundaries

Roles and Responsibilities

Public Transportation Division (PTN)

In addition to the general program roles and responsibilities located in Chapter 1 Introduction of the SMP, 43 TAC 31.36(c) requires TxDOT, as the administrating agency, to:

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

Subrecipients

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

Eligible Subrecipients

State agencies, local public entities, private non-profit organizations, Native American tribes and organizations, and operators of public transportation services are eligible to receive Section 5311 funds through TxDOT. Private for-profit operators of public transportation services may participate in the program through contracts with eligible subrecipients. An entity must be a rural transit district to receive Section 5311 funds except those private for-profit operators of public transportation services and entities, that are not rural transit

districts, are eligible to receive Section 5311 funds through TxDOT under ICB (43 TAC 31.36(f)(2)).

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

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

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

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

By joining an existing RTD, that county’s population and land area would be added to the formula for that RTD at the next opportunity for a formula funding distribution under Section 5311. In circumstances where a new RTD is created, the applicable population and land area shall be included as a new RTD in the next 5311 formula funding opportunity. Operating metrics will be added when they become available which may occur in a subsequent formula distribution.

An RTD can also apply for competitive funds during the biennial Coordinated Call.

Eligible Services and Service Areas

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

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

Eligible Assistance Categories

In accordance with TAC 43 31.36(e), TxDOT will follow FTA Circular 9040.1G, or its latest version, to determine eligible Section 5311 program expenses.

Current eligible assistance categories include:

1. State Administrative Expenses. TxDOT may use up to 10% of the annual federal apportionment to defray its expenses incurred for the administration of the Section 5311 program. These funds may also be used to provide technical assistance to subrecipients. Technical assistance may include project planning, program development, management development, coordination of public transportation projects, and related research. Projects are solicited from subrecipients and other interested parties. State administrative and technical assistance expenses do not require a non-federal match.
2. Project Administrative Expenses. Costs not directly tied, but essential, to the operations of passenger transportation systems may be reimbursed at up to 80% with federal funds. The federal share may also increase in accordance with 23 U.S.C. §120(b)(2) as determined by FTA regarding the area of nontaxable Native American lands, individual and tribal, public domain lands (reserved and unreserved), national forest, and national parks and monuments. Eligibility standards for the higher federal share are defined in FTA Circular 9040.1G or its latest version.
3. Operating Expenses. Operating expenses are costs that are directly tied to transit operations, such as costs for fuel; oil; replacement parts; and driver, mechanic, and dispatcher salaries.
4. Capital Expenses. Eligible items include:
 - a. Buses
 - b. Vans or other paratransit vehicles
 - c. Radio and communications equipment
 - d. Passenger shelters, bus stop signs, and similar passenger amenities
 - e. Wheelchair lifts and restraints
 - f. Vehicle rehabilitation, remanufacture, or overhaul
 - g. Preventive maintenance, including all maintenance costs
 - h. Extended warranties that do not exceed the industry standard
 - i. Mass transit portion of ferry boats and terminals
 - j. Operational support such as computer hardware or software
 - k. Installation costs and vehicle procurement, testing, inspection, and acceptance costs
 - l. Construction or rehabilitation of transit facilities, including design, engineering, and land acquisition
 - m. Facilities to provide access for bicycles to mass transit facilities and equipment for transporting bicycles on mass transit vehicles

- n. Lease of equipment or facilities
 - o. Capital portions of costs for service under contract
 - p. Joint development projects (FTA Circular 9300.1B, or its latest version, provides guidelines for joint development projects)
 - q. Introduction of new technology, through innovative and improved products, into mass transportation
 - r. Transit-related Intelligent Transportation Systems
 - s. Provision of ADA paratransit service, which shall not exceed 10% of the state's annual apportionment of Section 5311 funds and shall be used only by subrecipients that are in compliance with ADA requirements for both fixed route and demand responsive service
 - t. Mobility management consisting of short-range planning, management activities and projects for improving coordination among public transportation, and other transportation service providers carried out through an agreement entered into with a person, including a governmental authority, but excluding operating expenses
 - u. Crime prevention and security
5. The Capital Cost of Contracting includes depreciation, interest on facilities and equipment, and those allowable capital costs that would otherwise be incurred directly, including maintenance. No capital assets (vehicle, equipment, or facility) that have any remaining federal interest and no items purchased with state or local government funds may be capitalized under the grant agreement.
6. Planning Expenses. FTA Circular 8100.1C, or its latest version, has a complete list of eligible activities which include: studies relating to management, planning, operations, capital requirements, and economic feasibility; evaluation of previous planning projects; work elements and related activities preliminary to and in preparation for constructing, acquiring, or improving the operations of facilities and equipment; safety, security, and emergency transportation and evacuation planning; and coordinated public transit-human service transportation planning.

Local Share and Local Funding Requirements

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

Capital Expenses

- Federal funds may be used to reimburse up to 80% of eligible capital expenditures. The federal share may increase up to 85% of the net project cost for a project that involves acquiring vehicles for the purpose of complying with the Americans with Disabilities Act (ADA) of 1990 or the Clean Air Act of 1990.
- The federal share may increase up to 90% for bicycle equipment of facilities projects or for incremental costs related to compliance with the Clean Air Act or the Americans with Disabilities Act.
- The federal share may also increase in accordance with 23 U.S.C. Section 120(b)(2) as determined by FTA regarding the area of nontaxable Native American lands, individual and tribal, public domain lands (reserved and unreserved), national forest, and national parks and monuments, with eligibility standards for the higher federal share being defined in FTA Circular 9040.1G or its latest version.

Project Administrative Expenses

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

Operating Expenses

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

Planning Expenses

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

Eligible Sources of Local Share

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

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

Funds from any other U.S. Department of Transportation (US DOT) program are not eligible for use as local matching funds. For more information on local match resources, including programs that may provide matching funds for Section 5311, refer to [“A Study of Sources Used for Local Revenue for Transit,”](#) available on the TxDOT website.

Application Process

5311 Formula

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

Coordinated Call for Projects

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

- 49 U.S.C. § 5304 Planning Assistance (PLN)
- 49 U.S.C. § 5311(b)(3) Rural Transportation Assistance Program (RTAP)
- 49 U.S.C. § 5311 Rural Discretionary (RD)
- 49 U.S.C. § 5311(f) Intercity Bus (ICB)
- 49 U.S.C. § 5311 Fleet Replacement (FR), Flexed Surface Transportation Block Grant Program, when available
- 49 U.S.C. §5307 Fleet Replacement (FR), Flexed Surface Transportation Block Grant Program, when available

This program call will be posted biennially during the fall. Proposals will be due in the winter. Awards will be made in mid-to-late spring of the following year.

Selection Criteria and Funding

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

Specific criteria for each program include the following:

- TxDOT grants Section 5311 funds to operators designated as RTD by Chapter 458, Transportation Code. The PTC and the Rural Program Manager will assist the applicant in assembling and developing the project, as needed.
- TxDOT follows a formula in 43 TAC 31.36, as approved by the commission. The allocation to rural transit districts follows set-asides for intercity bus service and state administration. 43 TAC 31.36(f) specifies the fair and equitable distribution of funds within the state (FTA Circular 9040.1G or its latest version). After subtracting funds for state administrative expenses in accordance with 43 TAC 31.36(f)(1), TxDOT will allocate Section 5311 funds to local subrecipients in the following manner and order per 43 TAC 31.36(f).

Intercity Bus Allocation

Unless the chief executive officer of the state or the executive officer's authorized designee certifies to the Secretary of the US DOT that the intercity bus service needs of the state are being adequately met, TxDOT will allocate not less than 15% of the annual §5311 federal apportionment for the development and support of intercity bus transportation facilities and services providing access and connections to rural areas. If it is determined that all or a portion of the set-aside monies is not required for intercity bus service, those funds will be applied to the formula apportionment process described in 43 TAC 31.36(f)(4).

Procedures for determining if a certification of adequacy is warranted are as follows:

- TxDOT will review all data on intercity bus service availability, including outstanding requests from intercity operators and rural transit districts, and levels of service.
- TxDOT will consult with affected intercity bus service providers and rural transit districts.
- Based on the findings of 43 TAC 31.36(f)(1)(A) and (B), the commission, the governor or the governor's authorized designee may certify to the adequacy of intercity bus service.

Discretionary Allocation

After the allocation of funds under 43 TAC.36(f)(1) and (2), up to 10% of the remaining funds will be available to the commission for award at any time during the fiscal year on a pro rata basis, competitively, a combination of both pro rata basis and competitively, or as a one-time award. Funds may be used to address rural transit district service and capital development needs, changes in transit district boundaries, unforeseen funding anomalies, emergency services response and recovery needs, changes in economic conditions or availability of assets significantly impacting current year operational expenses, or other needs as determined by the commission.

Rural Transit District Total Allocation

Excluding the amounts allocated under 43 TAC 31.36(f)(1), (2), and (3), the commission will allocate to rural transit districts in accordance with 43 TAC 31.36(f)(4) the balance of the annual Section 5311 federal apportionment and any program funds that were available for award in the previous fiscal year but not awarded.

- Subrecipients will receive a baseline allocation. The amount of a subrecipient's baseline allocation is the amount of Section 5311 funds that the subrecipient received for federal Fiscal Year 2021 and will not be reduced by the performance adjustment under 43 TAC 31.36(f)(5).
- Each rural transit district will receive a subrecipient growth allocation amount based on proportional share using the following criteria:
 - population of the district - 50 percent;
 - land area of the district - 25 percent;
 - total vehicle miles in the district - 15 percent; and
 - number of low-income individuals residing in the district - 10 percent.

In accordance with 43 TAC 31.36(f)(4)(C) population is determined using the most recent federal decennial census except that beginning September 1, 2027, the director may choose to use population information from the Texas Demographic Center for periods between the publication of federal decennial census information.

Performance Adjustment

In accordance with 43 TAC 31.36(f)(5), the total allocation computed for a rural transit district under 43 TAC 31.36(f)(4) is subject to adjustment for performance, except as provided by 43 TAC 31.36(f)(4)(A).

- The performance measures used for performance adjustments under are:
 - the rural transit district's ridership increasing by two percent or more; and
 - the district's operating costs per total vehicle hours not exceeding the annual average of those costs for the district, plus one standard deviation, computed over a 10-year period but excluding any year in which a federal major disaster declaration was applicable to the district.
- For each performance measure not achieved, a rural transit district's total allocation will be reduced by five percent.
- A rural transit district that achieves both performance measures will receive an additional allocation amount computed by dividing the total amount of reductions for all under 43 TAC 31.36(f)(5)(B) by the total number of rural transit districts that achieve both performance measures.
- The director, in any year, may waive the application of the performance adjustment under 43 TAC 31.36(f)(5)(B) to a rural transit district or a group of rural transit districts based on unique conditions that negatively affect the performance of the district or group, including natural disaster, pandemic, or another event that specifically affects the service level of the district or group.

Census Adjustment

In accordance with 43 TAC 31.36(f)(6)(A), if part of a transit district's service area is changed due to declaration by the United States Census Bureau or the service area is otherwise altered, the department and that subrecipient shall negotiate an appropriate adjustment in the funding year or any subsequent year, using population and land area factors.

If a previously designated urbanized area is declared rural by the United States Census Bureau, a public transportation subrecipient serving that area must apply for funds in accordance with 43 TAC.36(f)(7).

Application and Contract

Prior to receiving funds, a subrecipient must complete and comply with all application requirements, rules, and regulations applicable to the Section 5311 program. A completed

application must be submitted, in a form prescribed by TxDOT, that documents the need and demand for general public passenger transportation services. A contract shall be for no less than 12 months unless authorized by TxDOT.

PTN procedures for assuring equity of distribution of benefits among groups within the state, as required by Title VI of the Civil Rights Act of 1964, are included in the current FTA-approved PTN Title VI Program. The PTN Title VI Program information is available on the TxDOT website at <https://ftp.dot.state.tx.us/pub/txdot-info/ptn/titlevi-program.pdf>.

Review of Allocation Provisions

Prior to allocating Section 5311 funds for FY 2028, TxDOT will review the allocations of Section 5311 funds for the preceding five fiscal years to determine whether 43 TAC 31.36(f)(1) - (5) needs to be adjusted for the fair and equitable distribution of those funds for FY 2028.

Policies and Procedures on Flex Funds

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

Fleet Replacement

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

Program of Projects Process

All projects for a fiscal year will be identified in accordance with the allocation rules included in 43 TAC 31.36(f). After commission approval of the allocation, these projects will be submitted to the FTA as the annual program of projects for the fiscal year.

5311 Formula Program

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

Coordinated Call for Projects Process

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

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

Section 5311(f) Intercity Bus

Section 5311(f) Intercity Bus service is provided for the general public and connects urban areas through fixed routes. The program is designed to strengthen the connection between rural areas and the larger regional or national intercity bus system. ICB also supports the system's infrastructure through planning, marketing assistance and capital investment in facilities and vehicles.

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

Eligible Subrecipients

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

Eligible Expenses

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

Local Match Requirements

For an ICB project that includes both feeder service and an unsubsidized segment of ICB service to which the feeder service connects, in-kind match may be derived from the costs of a private operator for the unsubsidized segment of ICB services for the operating costs of connecting rural intercity bus feeder services. The private operator must agree, in writing, to the use of the costs of the unsubsidized segment of ICB services as in-kind match. Section 5311(b)(3) Rural Technical Assistance Program

The national program provides for the development of information and materials for use by local operators and state-level administrators and supports research and technical assistance projects of national interest. Additionally, the program provides an annual allocation to each state to develop and implement training and technical assistance programs in conjunction with the administration of the Section 5311 formula program. The TxDOT RTAP program provides an opportunity for additional training and technical assistance to transit system personnel and planners to compliment the technical assistance provided by TxDOT staff.

The RTAP application process is part of the Coordinated Call. Applications may also be considered outside of the Coordinated Call cycle. Reasons for this include, but are not limited to: situations where the project is critical or time sensitive and the need was not known at the time of the previous Coordinated Call; technical assistance and/or training that may have resulted from another TxDOT funded project or is necessary before the next Coordinated Call cycle; and other situations for which a project would not need to be subject to a competitive call.

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

- The transit rodeo, a competitive event where vehicle drivers and/or maintenance personnel compete at different operational and safety related tasks either regional or statewide

- Statewide research projects
- Training and/or seminars
- Training materials and services for in-house and web-based training
- Financial assistance to rural public transit operators and specialized service providers to attend courses, seminars, and workshops
- Financial assistance to small and large urban systems so long as the activities are primarily designed and delivered to benefit rural transit providers and RTAP funds pay only the proportion of the project costs attributable to the rural beneficiaries
- Technical assistance with business practices to individual transit agencies
- Peer to peer workshops
- Transit Scholarship Program

Transit Scholarship Program

PTN uses a portion of annual RTAP and Section 5304 Federal allocations for its Transit Scholarship Program. The scholarship program is designed to give subrecipients the opportunity to send employees to transit-related training and transit rodeos and to obtain reimbursement for the training and travel-related expenses. The scholarship program also provides financial assistance to subrecipients for purchasing eligible training-related materials and services for in-house training and web-based trainings.

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

Application Procedures:

- Agencies must submit scholarship applications in the eGrants system no less than 10 days before training and travel begins. PTN will reimburse agencies only for those expenses that have been pre-approved in the PTN eGrants system.
- Separate scholarship applications must be submitted for each individual employee attending the training. If employees are carpooling or sharing a room, submit the requested shared expenses on one application only and reference the shared expenses on the other applications.
- The number of scholarships provided to an agency may be limited (maximum amount of \$3,000 per individuals). Scholarships will not be provided for an employee to repeat the same training.

- Agencies sending more than one employee to training should carpool to reduce travel expenses. Only one driver should itemize the mileage.
- Scholarship applications may also be submitted for agencies requesting in-house training for a group of employees. In-house training scholarships are limited to the tuition and other pre-approved expenses of the class; no travel or meal expenses are permitted (maximum amount of \$6,000).
- Out of state training may be allowed under this program on a case-by-case determination. Factors in determining out-of-state training may include overall cost, proximity of out-of-state vs in-state training and availability of training within the state.
- Travel and meal expenses will be paid for training that is considered out of town and includes overnight lodging.
- Meals will not be paid unless overnight lodging is necessary.
- Travel expenses for first and second place winners of regional rodeos to the Texas state rodeo are eligible as budget allows.
- Travel expenses for first place winners of the Texas state rodeo to Community Transportation Association of America or American Public Transportation Association national rodeos are eligible for consideration as budget allows.

Reimbursement Requirements:

Reimbursements will be based upon the Texas Comptroller of Public Accounts guidelines for travel expenses, {see [link](#)}. Payments for actual travel expenses may not exceed the limits reimbursable under applicable law.

- Reimbursement requests must be received by PTN within 45 calendar days of the last day of training or training-related travel. Requests received after 45 days may be denied.
- Legible copies of all receipts must be attached to the reimbursement request electronically via eGrants Scholarship Application. Meal receipts are not required, but must be kept on file at the agency.
- Payments will be made to the agency, not to individual employees.
- All records related to the scholarship program, including receipts, must be kept on file at the agency for a period of five years after final reimbursement from PTN.
- No travel advance payments will be made. Reimbursement will be made after travel and training are completed. To be eligible for reimbursement, a cost must be incurred.
- Students must attend all training and receive a Certificate of Completion or other proof of attendance. Copies of the training certificate, the class attendance roster or other verification of attendance must be attached to the reimbursement request.
- Agencies will be paid by TxDOT within 30 days of submitting the completed reimbursement request and appropriate documentation to PTN.
- Reimbursement requests that do not meet the established criteria will not be approved and payment will not be made to the agency.

- Transit agency acceptance of a reimbursement under the scholarship program prohibits any additional reimbursement under other federal programs such as 5311.

Eligible Subrecipients for RTAP

The primary beneficiaries of RTAP funds are rural transit districts. As appropriate, other eligible 5311 entities and recipients of other FTA funds can participate if they can demonstrate the benefit of the project to rural transit. For projects that cover both rural and non-rural areas, the amount of funding received by non-rural transit districts or other 5311 entities may be limited to the proportional share of rural benefit. A state Transit Association may receive funds for the purpose of providing training.

Eligible Expenses for RTAP

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

Match Requirements for RTAP

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

Private Sector Participation

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

Administrative Requirements for Section 5311 Program

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

Special Section on 5311 Funding for the Coronavirus (COVID-19) Public Health Emergency 2020

The Coronavirus (COVID-19) pandemic spread throughout the nation in 2020, greatly impacting the transit industry and its attempts to respond. FTA took several actions to support transit providers by allowing increased match ratios of 5311 formula funds through the FTA Emergency Relief Program and apportioning additional funds through the

Coronavirus Aid, Relief, and Economic Security (CARES) Act and the American Rescue Plan Act of 2021 (ARP), allowing eligibility of non-traditional activities and expenses and waiving certain federal requirements.

FTA Emergency Relief Program

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

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

CARES and ARP Act

The United States Congress passed the CARES Act on March 27, 2020 and the ARP Act on March 10, 2021, both of which authorize funding under the FTA Formula Grants for Rural Areas Program (49 U.S.C. §5311) to prevent, prepare for, and respond to the coronavirus (COVID-19). Texas was apportioned a total funding amount of \$143,200,533 in CARES of which \$21,480,083 (15%) is a required ICB set aside, \$3,901,971 in ARP of which \$585,296 (15%) is a required ICB set aside. TxDOT is allowed to utilize up to 10% of the total award for State Program Oversight, but has elected to not use any funds for this purpose. The total amount of funding available after the ICB and State Program Oversight set asides is \$121,720,470 of CARES and \$3,316,675 of ARP. Texas was also apportioned a separate amount of ARP funds specifically for ICB in the amount of \$6,395,554.

The CARES and ARP Acts provide additional funds, for the 5311 program, available at 100% federal participation and no local match requirement, to respond to the coronavirus public health emergency, as described in Section 319 of the Public Health Service Act, beginning January 20, 2020. CARES and ARP funding is made available to transit providers for operating costs to maintain service and address lost revenue due to the COVID-19 public health emergency. Funds are available to eligible 5311 and ICB subrecipients. All activities normally eligible under the 5311 Rural Area Formula Program (49 USC §5311) are eligible for CARES and ARP Act funding, including planning, capital, operating, and administration activities. CARES funds are available until expended. No lapse date is identified, although if the emergency declaration is lifted, FTA may determine that costs incurred after that time would not be claimed for this assistance. FTAs objective of using ARP funds was to provide for payroll and operations (the recipient must certify that no employees have been furloughed if funds are to be used otherwise.) ARP funds must be obligated by September 30, 2024 and disbursed by September 30, 2029. Both CARES and

ARP funds are intended for use to cover operational expenses both during the period of the national emergency declaration and during an undefined recovery period. As transit operations adjust to pandemic protocols and impacts of the anticipated economic downturn on revenues, these funds will provide stability and certainty to essential publicly funded mobility services.

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

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

Eligible Activities and Expenses

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

- Administrative Leave
- Removal of health and safety hazards, such as additional vehicle and facilities cleanings
- Costs associated with shutting down and/or restarting service
- Cleaning supplies like hand sanitizer, gloves, soap, and cleaners
- Personal Protective equipment/supplies. Temporary service, that is not part of regular service, provided in response to the pandemic

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

TIP & STIP Requirements

CARES and ARP Act funds used to pay for operating expenses do not need to be included in the TIP or STIP. CARES and ARP Act funds used to pay for capital expenses for emergency

relief do not need to be included in the TIP/STIP unless the projects are for substantial functional, locational, or capacity changes. See 23 CFR § 450.326(e)(5), 450.218(g)(5). Accordingly, capital projects to prevent, prepare for, and respond to COVID-19 that involve substantial functional, locational, or capacity changes must be included in the TIP/STIP.

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

Program Purpose and Authority

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

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

Program Goals and Objectives

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

Program Roles and Responsibilities

Public Transportation Division (PTN)

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

1. allocate the available program funds so that each eligible subrecipient will receive a proportional share of available funding based on the total vehicle miles reported to the department on an annual basis with no eligible subrecipient receiving less than one percent of the amount available;
2. develop application materials and disseminate information to eligible subrecipients;
3. prepare the state's funding application and submit the application to the FTA for approval;
4. negotiate and execute contracts with subrecipients;

5. prepare requests for federal reimbursement and process payment requests from subrecipients;
6. monitor and evaluate the progress of local projects, including compliance with federal regulations; and
7. provide technical assistance to subrecipients as necessary.

Subrecipients

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

Coordination

State Agency Level Coordination

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

Project-Level Coordination

All subrecipients should review their internal policies and procedures before submitting 5339 projects to ensure they are following their own internal project-level coordination guidelines.

Eligible Subrecipients

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

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

Eligible Activities

Administrative Expenses

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

Capital Expenses

Eligible activities include, but are not limited to:

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

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

IIJA 5339 Discretionary Grant Application Requirements

Changes made to the 5339 Discretionary Grants and Low or No Emissions Grants program within IIJA § 30018, IIJA Division J include:

Allows an applicant to the Grants for Buses and Bus Facilities competitive program who is also applying for the Low or No Emission Grants program to propose partnerships with other entities, which would then be deemed to satisfy the competitive procurement requirements under 49 U.S.C. § 5325.

1. Requires that applicants submit a zero-emission fleet transition plan with their applications to both Grants for Buses and Bus Facilities and Low or No Emissions Grants competitive programs for projects related to zero-emission buses.

2. Requires that 5% of all Grants for Buses and Bus Facilities or Low or No Emissions competitive grants related to zero emission vehicles or related infrastructure be used for workforce development activities, unless the applicant certifies that less is needed to carry out their zero-emission fleet transition plan.
3. Not less than 25% of Low or No Emissions Grants funding must be used for low-emission vehicles and related facilities (excluding zero emission vehicles and facilities).

Operating Expenses

Operating expenses are not eligible for reimbursement under the 5339 program.

Local Share and Local Funding Requirements

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

Eligible Sources of Local Share

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

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

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

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

Project Selection Criteria and Method of Distributing Funds

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

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

Funding Calculation

Funds for each specific area are calculated as follows:

For Rural Transit Districts PTN will:

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

For Small Urban Transit Districts PTN will:

- Allocate the available program funds so that each eligible recipient will receive a proportional share of available funding based on the total vehicle miles reported to

TxDOT on an annual basis with no eligible recipient receiving less than 1% of the amount available

- Notify the FTA of the results of the allocation calculations
- Notify the small urban transit districts of the results of the allocation calculations
- Authorize the small urban transit districts to apply directly with the FTA for the funds (due to their status as direct recipients under the FTA §5307 program)

Equity Distribution

PTN procedures for assuring equity of distribution of benefits among groups within the state, as required by Title VI of the Civil Rights Act, are included in the current FTA approved PTN Title VI Program. The PTN Title VI Program is available on TxDOT's website. The 2021 - 2024 document is entitled: Title VI Program.

Annual Program of Projects Development and Approval Process

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

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

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

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

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

Administrative Requirements for Section 5339 Program

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

Chapter 5 – Administrative Requirements for All Programs

COVID-19

In 2020, the Coronavirus (COVID-19) public health emergency impacted operations of organizations across the country. In response to the adverse effects that recipients and subrecipients of federal funds are facing, the FTA and the Office of Management and Budget (OMB) have issued and may continue to issue guidance regarding administrative relief and ease of certain restrictions during this public health emergency. FTA created a landing page on their website for resources/information/guidance relevant to funding and operations during the pandemic which can be found at: [Novel Coronavirus \(COVID-19\) | FTA \(dot.gov\)](#). FTA also posted a series of Frequently Asked Questions (FAQs) regarding COVID-19, at the following link: [Frequently Asked Questions from FTA Grantees Regarding Coronavirus Disease 2019 \(COVID-19\) | FTA \(dot.gov\)](#). OMB issued guidance and memoranda (M-20-11, M-20-17, M-20-20, and M-20-26) regarding report delays, extension of timelines, relaxed registrations, publications requirements, allowance of award and pre-award costs.

Examples of specific guidance released by the federal government in FY 21 affecting public transportation include, but not limited to the following:

1. The OMB issued various memoranda, the latest of which allowed extensions beyond the normal due date for FY20 Single Audits.
2. Guidance on complying with federal drug and alcohol testing requirements during the pandemic was issued in March 2020 and posted on FTA's website at: [DOT Guidance on Compliance with DOT Drug and Alcohol Testing Regulations | US Department of Transportation](#).
3. The Transportation Security Administration (TSA) issued a [face mask mandate](#) requiring individuals across all transportation networks, including public transportation, to use a face mask. The initial requirement expiring May 11, 2021 was extended through September 13, 2021. The mandate was re-instated starting September 14, 2021 to May 3, 2022, but the mask mandate was lifted because of a court order on April 18, 2022.
4. Starting May 2021, FTA requires recipients and subrecipients to report COVID-related impacts. TxDOT collects the data from subrecipients and submits results to FTA through the National Transit Database (NTD) portal.
5. Allowed current indirect cost rates to be extended to recover indirect costs on Federal awards.

To protect personnel from exposure to COVID-19, PTN's onsite reviews of subrecipients were conducted virtually in calendar years 2020 and most of 2021. As of FY 2022, reviews resumed in an onsite environment as much as possible; however, reviews may return to a fully virtual environment if the public health emergency warrants such a change.

PTN eGrants System

PTN utilizes an electronic grants management system, eGrants, to automate previous paper-based, manual grant management functions. The eGrants system was phased in beginning in fiscal year 2016. As of 2018, eGrants is PTN's official office of record for all grant programs. Due to growing cyber security threats, it is critical that all users follow simple rules for system safety:

All users need their own, unique account

No one should share an account

No one should take over an old account

No one should ever share passwords

Subrecipients are responsible for managing access to users within their agency. PTN will conduct annual security reviews to verify that subrecipients have removed access to individuals who are no longer with the agency or do not need to use eGrants in their job function.

eGrants Technical Assistance

Subrecipients who need eGrants technical assistance should contact their PTC. Technical assistance for the eGrants system is also provided by accessing the eGrants web address at: <https://apps2.dot.state.tx.us/apps/egrants2/logout2.aspx> or via email at ptn-egrantshelp@txdot.gov or by contacting the PTN eGrants Help Desk by phone at (512) 486-5957. Hours of operation are Monday through Friday 8am-4pm Central Time.

Uniform Administrative Requirements

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

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

Financial Management

As a primary recipient of FTA apportionments to states, and as the state agency designated to administer such funds for transportation activities in Texas, TxDOT will manage the fiscal elements of these programs in accordance with its existing procedures, FTA guidelines, and other applicable state and federal regulations.

Accounting Systems

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

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

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

- General Ledger Reports
- Payroll Records and Reports
- Time Records
- Invoices for goods and services purchased
- PGAs
- Vouchers
- Proof of Payment for incurred costs

5311 and 5307 Direct Cost Allocation Plans

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

5311 and 5307 Direct Cost Allocation Plans shall be submitted in the PTN eGrants system at time of application and must be updated annually by the subrecipient. PTN will review

5311 and 5307 Direct Cost Allocation Plans at the application review phase and again when an annual update is submitted.

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

Indirect Cost Procedures

Federal requirements governing the use of indirect costs on federal awards are provided in 2 CFR Part 200, specifically 2 CFR §§200.410-.417, .458, .460, 2 CFR Part 200 Appendix VII, and FTA Circular 5010.1E. For the programs administered by PTN, subrecipients may charge indirect costs as applicable to the 5311 Formula program and 5304 Planning program. Indirect costs are those that have been incurred for common or joint purposes benefiting more than one cost objective and not readily identified with a final cost objective without effort disproportionate to the results achieved. The diverse nature of subrecipient organizational and accounting structures may make it difficult to standardize the classification of costs as either direct or indirect. Identification with the federal award versus the nature of the goods/services involved may help distinguish direct from indirect costs of a federal award. However, costs must be consistently charged as either direct or indirect and may not be double charged or inconsistently charged as both. A cost may not be allocated to a federal award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to a federal award as a direct cost.

Subrecipients desiring to claim indirect costs under federal awards, other than the de minimis, must prepare an indirect cost rate proposal and related documentation to support those costs. The proposal and related documentation must be retained for audit in accordance with the records retention requirements contained in 2 CFR §200.334, Retention Requirements for Records.

Indirect cost proposals must be developed within six months after the close of the agency's fiscal year, unless an exception is approved by the cognizant agency for indirect costs. Guidance on submission and documentation requirements can be found in 2 CFR Part 200, Appendix VII. In summary:

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

All indirect cost rate proposals must be accompanied by a "Certificate of Indirect Costs" delineating the indirect cost rate, base, and effective period. The certificate must be signed

by an individual at a level no lower than Vice President or Chief Financial Officer of the agency. Guidance on the submission, documentation and format of the Certificate of Indirect Costs can be found at [2 CFR Part 200, Appendix VII](#).

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

Requesting the Use of Indirect Costs

The election to charge indirect costs on a PTN PGA must be made at time of grant application. Appropriate supporting documents are also required depending on whether the de minimis rate or a negotiated rate is requested, as described below.

De Minimis Rate

If using the de minimis rate (10%), the subrecipient must email their PTC, who will document the subrecipient's intent to use the de minimis rate. The subrecipient is required to upload a copy of the email (stating their intent to use the de minimis rate), and upload a copy of the email into the eGrants Compliance tab. Once documented, the subrecipient shall notify the PTC if they decide to use a negotiated rate instead of the de minimis rate.

Negotiated Rate

If the subrecipient is using a negotiated rate, a Certificate of Indirect Costs documenting the Subrecipient's indirect cost percentage rate, distribution base, and the effective period will be uploaded and tracked in eGrants. Throughout the life of the grant, the certificate must be updated upon expiration, thereby maintaining an up-to-date certificate in eGrants for the duration of the grant award.

Subrecipients with an approved indirect cost rate may request indirect costs within a grant application as an allowed expense. The approved indirect cost rate will be notated in the Certificate of Indirect Costs document. Subrecipients may continue to submit reimbursements with an expired indirect cost rate until an approved rate is determined by the cognizant agency. The PTC will monitor any rate change and determine if refunds or adjustments are applicable for the difference. In situations where the new indirect rate increases, subrecipients will not be given the opportunity to retroactively bill at a higher amount; however, if the rate decreases, the subrecipient will be required to submit a refund to PTN or adjust a request for reimbursement (RFR) that is occurring within the same fiscal year as the indirect cost payment.

Transportation Development Credits

Transportation Development Credits (TDCs) are a federal transportation funding tool used to meet federal funding match requirements. Instead of using local funds as a cash match for federal awards, subrecipients may request TDCs to be used towards the non-federal matching share of public transportation capital projects. For programs administered by PTN, agencies can request TDCs by selecting the TDC box in the eGrants application budget for federal funds. To request TDCs for funds an agency receives directly from FTA, subrecipients must complete a TDC only application in eGrants. PTN is authorized by the Commission to use its discretion to award TDCs for eligible projects. When approved, subrecipients' TDC expenditures are tracked as part of the overall project budget. TDCs cannot be issued for projects which have already been awarded in an FTA grant with another source of match.

Local Match

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

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

Program Income

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

Reimbursement Procedures

Reimbursement of Costs Incurred by PTN

PTN incurs programmatic and administrative costs in administering transit programs. On a periodic basis, PTN prepares reimbursement requests within the TxDOT PeopleSoft system for accrued costs. Once the reimbursement request is submitted by PTN in PeopleSoft, the Financial Management Division will enter requests in the PeopleSoft Project Costing module. A second person in the Financial Management Division will analyze and review the queries for accuracy and check the requested reimbursement amounts against available

balances in the FTA TrAMS system. Inaccurate or incomplete requests will be removed and reported to PTN for resubmittal. The remaining queries will be re-analyzed and prepared for submission into the Electronic Clearing House Operation (ECHO) system. A third person in the Financial Management Division will access ECHO and enter the grant information and the requested reimbursement amount. Once approved, the ECHO reimbursement requests will be submitted. FTA electronically wires, via ACH, the funds to TxDOT within one to two days after ECHO approval. Once TxDOT receives the funds, Financial Management Division enters the amounts received in PeopleSoft for each PTN project.

PTN Policy of Reimbursement of Costs to Subrecipients

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

Subrecipient Reimbursement Process for grants administered in the PTN eGrants system

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

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

Properly submitted RFRs will be paid no later than 30 days after date of receipt from the subrecipients. RFRs that are incomplete, inaccurate, or otherwise not in compliance with PTN requirements will not be accepted for processing until deficiencies in the RFR submission are corrected. Non-compliant RFR submissions may be returned to the subrecipient for corrections and will not be processed until all deficiencies have been addressed, as requested by the PTC.

Alternate Reimbursement Request (Two-Party Check Option)

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

To request an Alternate Reimbursement, subrecipients must submit a written request via mail or email to their PTC at least 45 calendars before payment to the vendor is due.

Written requests must include:

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

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

Reimbursement Documentation

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

Streamlined Documentation Reimbursement

Streamlined reimbursement requests consist of a request for reimbursement form and general ledger reports to support the amounts requested for reimbursement. The full supporting documentation shall be maintained by the subrecipient and available upon request. The streamlined reimbursement method may be allowed for entities that demonstrate, through past performance, no financial deficiencies or other monitoring concerns and an adequate accounting system capable of producing general ledger reports that allow the tracing of expenditures to specific grants. The primary means for determining

past performance shall be quarterly financial reviews, biennial compliance reviews, triennial reviews, annual audits, and timely resolution of Improvement Action Plans.

Full Documentation Reimbursement

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

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

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

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

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

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

Budget Revisions and Amendments

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

Revisions

Changes may be made in the form of a revision if the purpose, scope and amount of the PGA will remain consistent with the applicable Approved Project Budget. This may include a

transfer of funds between or among budget categories within an approved PGA. A revision cannot be used to change the purpose, scope, total dollar amount, or terms and conditions of the PGA.

To request a revision, subrecipients must submit a written revision request to their assigned PTC, via e-mail. Upon receiving approval from the PTC and concurrence from the Program Manager, in some instances, the subrecipient submits an amendment request in PTN eGrants. The amendment description must provide a background, description, and justification for the budget revision or amendment. To be considered for PTN review and approval in PTN eGrants, the budget revision must meet the following criteria:

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

Revision requests will be reviewed and approved at PTN's discretion. Subrecipients will be promptly notified of the result of their revision request. Approved revisions shall be effective upon PTN's approval of the revision request in eGrants. PTN shall update internal project financial records and billing forms with PeopleSoft and eGrants.

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

Amendments

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

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

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

Project Financial Review

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

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

Annual Single Audit

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

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

Annual Audits are required if the state, local government, and not-for-profit grant recipients:

- Expend \$750,000 or more of federal awards in a fiscal year. Then they are required to obtain an independent audit in accordance with [2 CFR Part 200](#).
- Expend \$750,000 or more of state awards in a fiscal year. Then they are required to obtain an independent audit in accordance with the TxGMS.

Annual Audits of For-Profit Grant Recipients

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

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

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

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

Federal Financial Report (FFRs)

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

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

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

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

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

Close-Out

After all project activities and deliverables associated with a subrecipient's grant agreement have been completed and all eligible costs have been reimbursed by PTN, the

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

PTN will begin grant close-out procedures of FTA funds within ninety (90) days of having a zero balance on an FTA grant or when ECHO draws are complete. All closeout documents or reports, including MPR and FFR, will be submitted in TrAMS to FTA within the required ninety (90) days following initiation of a grant closeout.

Technical Assistance

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

PTN also contracts with TTI to provide technical assistance to subrecipients. PTN enters into an Interagency Contract (IAC) with TTI every two years, in the same cycle as the legislative biennium. PTN coordinates the proposed Notices to Proceed (NTPs) with PTN Management Team and issues the agreed-upon NTPs to TTI. The current IAC allows up the support of PTN programs and includes four major tasks:

- Statewide Data Reporting and Quality Assurance
- Regional and Statewide Planning Assistance
- Transit Agency Technical Assistance and Training
- Leadership and Management Development

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

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

- Financial Management and Analysis
- Capital Project Development
- Operation and Service Analysis

Agreements

Master Grant Agreement (MGA)

The PTN MGA is a contractual document between PTN and subrecipients who have or will have an active Project Grant Agreement (PGA). The document includes state and federal requirements by which subrecipients are required to abide. The MGA template is published on [PTN's Public Transportation Publications](#).

MGA Time Period

The MGA is effective for five fiscal years, from September 1, 2021 through August 31, 2026. Fully executed MGAs are signed electronically in eGrants by the subrecipient and PTN's Section Director.

Annual Certifications and Assurances

FTA Certifications and Assurances

The FTA [Certifications and Assurances](#) (C&A's) are published annually. PTN signs the FTA C&A's electronically in FTA's TrAMS system.

Subrecipient Certifications and Assurances

Each year, PTN passes along FTA's C&A's to subrecipients and includes TxDOT specific C&A's. The document includes TxDOT form 2433 – Internal Compliance Program Certification. The FTA and TxDOT C&A's are signed by subrecipients with an active Project Grant Agreement (PGA) or those that will receive a PGA.

The combined FTA and PTN C&A's are published on [PTN's Public Transportation Publications](#) webpage. The document title is: Current Fiscal Year Federal Transit Administration (FTA) and TxDOT Certifications and Assurances.

Internal Ethics and Compliance

Title 43 of the Texas Administrative Code requires specific state and federal fund recipients to adopt and enforce an internal ethics and compliance program that satisfies the requirements of 43 Texas Administrative Code §10.51. The TxDOT Compliance division may

review and approve subrecipients' internal ethics and compliance program plans prior to being eligible for funding.

Delegation of Signature Authority

PTN requires state and federal funds recipients to complete and upload a delegation of Signature Authority form in PTN's eGrants system. Signature Authority documents must reflect the highest tier authority in the subrecipient's organization or by an individual with authority to do so. Subrecipients update the document annually or during the course of the fiscal year, if needed. References are available on [PTN's Forms and Publications](#) webpage.

Project Grant Agreement (PGA)

PGA applications are created within PTN's eGrants system. To receive a PGA, an entity must apply for grant funding, receive a notice of award, and execute an MGA, FTA and TxDOT combined Certifications and Assurances, and an Internal Compliance Program Certification.

Procurement

Introduction and Authority/Guidance

Introduction

As a recipient of Federal Transit Administration (FTA) funds, PTN is responsible for providing procurement oversight to ensure compliance with federal and state procurement statutes and regulations. All subrecipients, receiving funds through TxDOT, must demonstrate that all procurement and third-party contracting activities comply with applicable federal, state, and local laws and regulations.

Federal Authority

All procurements reimbursed with FTA funds shall follow the guidelines established by the 2 CFR Part 200, FTA Circular 4220.1F "Third Party Contracting Guidance," FTA Circular 5010.1E and other applicable federal laws, regulations, and requirements that affect third-party procurements enacted during the contract's lifespan.

State Authority

Procurements that include TxDOT funds are required to meet the standards established within 43 Texas Administration Code Chapters 9 and 31, Texas Government Code Chapters 783 and 2155, Texas Local Government Code Chapter 271, Uniform Grant Management standards (UGMS), and the Texas Grant Management Standards (TxGMS) as of January 1, 2022, as well as other applicable state laws, local laws, and other requirements that affect

third-party contracts as well as other applicable state laws, local laws, and other requirements that affect third-party contracts.

Federal Transit Administration Guidance

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

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

State Guidance

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

Most procurement documents are public information and subrecipients must retain them for at least three years after the close of the contract. In the case of the procurement of capital assets, documents are retained for the life of the asset plus three years per 41 TAC §31.44. PTN retains files in accordance with the State of Texas Record Retention Schedule requirement of five years.

Department Role

PTN monitors subrecipient's procurement and contracting with use of the following monitoring documents: PTN-130 Vendor Consolidated Certification Form, PTN-124RS Rolling Stock Procurement Monitoring Form, PTN-1240C Other Capital Procurement Monitoring Forms and PTN-129 for Compliance Review Form (5310, 5311, 5339, and State Funds). PTN monitoring forms are located on [PTN's publications forms](#) web page. If no issues are identified, the Public Transportation Coordinator (PTC) shall give concurrence to the subrecipient.

Procurement Process

The procurement process has three phases:

1. Procurement Planning and Solicitation
2. Award/Contracting Activities
3. Delivery

Procurement Planning and Solicitation

Before a subrecipient begins a specific procurement process, the subrecipient must have a procurement program in place that includes:

- Procurement procedures that reflect applicable federal, state, and local laws and regulations
- Contract administration that ensures contractor performance in accordance with terms, conditions, and specifications of the contracts or purchase orders
- Written code or standards of conduct
- Review procedures that avoid purchase of unnecessary or duplicative items
- Written procurement history record
- Written procedures to handle and resolve protests
- Written procurement procedures
- Use of intergovernmental agreements, federal excess and surplus property and value engineering, wherever possible
- Rolling stock/replacement parts procurements that do not exceed five years inclusive of options
- Making an Independent Cost Estimate (ICE) prior to solicitation
- Performing cost or price analysis prior to entering into a contract or issuing a purchase order

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

When procuring fleet, per 49 U.S.C. § 5339, IJA § 30018, IJA Division J, to the extent possible, subrecipients shall use the innovative procurement tools authorized under Section 3019 of the FAST Act. If fewer than five buses are purchased through a stand-alone procurement, the subrecipient must provide a written explanation to TxDOT on why the authorized procurement tools were not used.

Invitation for Bids (IFB)

IFBs are publicly solicited and request bidders to submit proposals for the good or service described in the procurement. Generally, the goods or services are described in a design specification, meaning the specifications describe exactly how the good or service will be completed by the prospective bidders without alteration unless approved beforehand by the

subrecipient. When using an IFB, the winning bidder is selected based on price. Geographical preference is not a permitted selection criteria.

Request for Proposals (RFP)

The RFP method is used when the contractor will be selected on predominantly non-cost factors. It is mostly used when selecting a contractor for services, but it may also be used to select a commodity supplier. An RFP is generally crafted with a performance specification. A performance specification outlines the functional requirements of the goods or services, the environment in which it must operate, and other characteristics the bidder must complete. However, unlike a design specification, a performance specification lets the bidder submit proposals on how best to achieve the result. In an RFP process, the agency shall establish scoring criteria that measure the responsibility of proposers and the responsiveness of their proposals. The scoring criteria must be published, indicating the selection factors in order of priority. Additionally, cost may be a selection criteria factor; however, if it is the main factor the subrecipient would be better off using an IFB. Geographical preference is not a permitted selection criteria.

Request for Statements of Qualifications

Request for Qualifications (RFQs) are used to locate the most qualified person/vendor to complete a task. In these situations, the subrecipient is requesting a bidder's credentials to verify they're the best fit for the project. This method is used when seeking professional services, such as architects, engineering architecture and engineering services, in accordance with the Brooks Act. Upon receipt of various statements of qualifications, the offers are ranked and price negotiations are initiated with the highest scoring offeror. If negotiations with the first offeror are unsuccessful, negotiations may begin with the next ranked candidate.

Additionally, RFQs permit geographical preference usage if there are enough vendors in the area to generate sufficient competition.

Oversight and Approval of Solicitations

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

Procurement Procedure Based on Independent Cost Estimate

Per 43 TAC §31.44(c)(1), subrecipients follow the chart below when determining if a formal solicitation is required. A subrecipient may elect to follow a more stringent process than described below. Formal solicitation documents (Invitations for Bids / Requests for Proposals / Requests for Statements of Qualifications) must be reviewed and concurred by TxDOT.

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

Note: State laws and rules affect the thresholds described above. The threshold for formal solicitation processes is less than prescribed by FTA and is unaffected by FAST Act and the Office of Management and Budget memorandum M-18-18 dated June 20, 2018. For FTA procurement thresholds, see [FTA Circular 4220.1F](#).

Initiation of a Written Procurement History

When the subrecipient determines a solicitation is necessary to procure a good or service for the agency and meets the cost criteria described above, the following documents, known as a Written Procurement History, must be submitted to the PTC:

- The Independent Cost Estimate (ICE)
- The rationale the subrecipient used for the method of procurement (such as IFB, RFP or RFQ)
- The rationale the subrecipient used for the planned contract type
- The methodology that will be used to select a contractor

Planning for Joint Procurements

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

The procurement procedure used by the lead agency cannot violate another participating subrecipient's own procurement procedures. Therefore, it is important that all relevant

procurement information be shared among the participants. For vehicle purchases this includes, but is not limited to:

- Vehicle Options
- Floor Plans
- Agency Tax Status
- Delivery Locations
- Fleet Identification Numbers for Fleet Discounts

In addition to the above information, all participants in a joint procurement must maintain a written procurement history and individually meet all federal, state, and local requirements.

Subrecipient Solicitations for Rolling Stock and Manufactured Goods

Requests for offers to supply rolling stock, steel, iron, or manufactured products shall provide for receipt of certifications from offerors indicating compliance with Buy America or qualification for exception to Buy America requirements, per 49 USC §5323(j) and 49 CFR Part 661.

In accordance with IIJA Section 70914(b)(1), the Biden-Harris Administration has implemented a 180-day temporary public interest waiver for construction materials beginning on May 14, 2022 and expiring on November 10, 2022. The waiver was implemented to prepare for compliance with the new Made in America standards for construction materials. This waiver is applicable only to awards obligated on or after May 14, 2022 and before November 10, 2022. For more information on the waiver and Made in America, see [Executive Order 14005 and the waiver notice](#).

Award / Contracting

Subrecipients shall furnish PTN notice of the intent to award a purchase order or contract to any individuals or organizations not a part of the subrecipient's organization when the amount of the purchase meets or exceeds the threshold level in the Government Code or Local Government Code (or \$25,000 for those entities not covered by the Government Code or Local Government Code) requiring formal competitive procurement. TxDOT monitoring thresholds are the same as described for formal solicitation processes in the table "Procurement Procedure Based on Independent Cost Estimate (ICE)." Purchases shall not be split to stay below the threshold amount. No subcontract will relieve the subrecipient of the subrecipient's legal responsibilities to TxDOT. All subcontracts in excess of \$25,000 should comply with all applicable federal and state required clauses. See the [PTN-130](#) for additional information regarding which clauses are applicable for your solicitation to TxDOT.

Contracts shall contain all required provisions required by state and federal law. These requirements flow down to all third-party contractors and their contracts at every tier. Subrecipients must be prepared to monitor the successful contractor for compliance with all applicable federal, state, and local requirements, as well as 43 TAC 31.44(c)(1) and 2 CFR Part 200 .

Note: When awarding a fleet contract, subrecipients must ensure that only eligible transit vehicle manufacturers (TVM) are awarded an FTA-assisted transit vehicle contract. FTA maintains a current list of eligible TVMs at: <https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/eligible-transit-vehicle-manufacturers>.

Subrecipients shall only enter into contracts with responsible contractors who are not debarred or suspended by the state or federal government. Information on debarred and suspended businesses may be obtained through the following links: the State of Texas' debarred vendor list may be found [here](#) and the federal list obtained through [SAMS.gov](https://www.sams.gov).

Price Analysis

A price analysis is an evaluation of the vendors price relative to the prices offered by other vendors and being paid by the general public for the same or similar items. A price analysis is necessary following a competitive procurement process and in situations where items are being procured which are sold in the commercial marketplace to the general public. The price analysis will show the consistency between the estimated cost and the proposed price. Any significant discrepancy must be explained.

Cost Analysis

When a price analysis cannot be performed, a cost analysis is recommended. A cost analysis entails the review and evaluation of the separate cost elements and the proposed profit of a bidder's cost proposal. The cost analysis is conducted to perform an opinion on the degree to which the proposed cost, including project, represents what the performance of the contract should cost.

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

Performance Measures

The solicitation document and resulting contract should include performance measures by which the subrecipient can judge the contractor's fulfillment of the contract requirements. Such stipulations often include clauses for renewal, project deadlines, and progress goals. Sound business practice dictates that before exercising such options, transit agencies should consider the contractor's performance and whether the terms, conditions, and price are still favorable to the agency.

Pre-Award Audit and Buy America

All revenue rolling stock purchases will be supported by a pre-award audit. Audit documentation and descriptions may be found within the [FTA Buy America Handbook](#), Appendix B: Certificates and Forms, or requested from PTN. The pre-award audit is a self-certification by the subrecipient that includes:

- Purchaser's Certification
- Buy America Certification
- FMVSS Certification

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

FAST Act provides for an increased domestic content requirement for rolling stock over the life of the Act; FY16/17: 60%, FY18/19: 65%, and FY20 and beyond: 70%. The Act also raises the threshold for public interest waiver to \$150,000. This change and others enacted by the [2 CFR 200](#) are reflected in the PTN-130.

Development of the Written Procurement History

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

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

Delivery

TxDOT oversight continues with the delivery phase when the request for reimbursement is submitted to ensure all federal and state regulations have been followed.

Post-Delivery Audit

When revenue service vehicles are purchased with FTA funding, the agency must conduct a post-delivery audit. The post-delivery audits can be found within the [FTA Buy America Handbook](#), Appendix B: Certificates and Forms, or requested from PTN. It addresses the same areas as the pre-award audit, confirming that the vehicles delivered met:

- Specifications (Purchaser's Certification)
- Buy America
- FMVSS

In certain cases, the documentation that the vehicles were delivered to specification (purchaser's certification) must be supported by documentation of a factory inspection. Special preparations must be made when purchasing more than ten (10) vehicles that will

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

Other Requirements

When revenue service vehicles are purchased with FTA funding, the agency must receive a print or electronic copy of the bus testing (Altoona) report prior to issuing payment for the vehicle. The subrecipient shall archive the report within the procurement file.

When a vehicle is purchased with support of FTA funds administered by TxDOT, or with state funds, subrecipients shall record a lien in the title application reflecting TxDOT as lienholder.

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

Any grant funded equipment purchased with a per unit cost that exceeds \$5,000 must be inventoried in accordance with 43 TAC §31.50 and shall be entered into PTMS.

PTN subrecipients procuring goods or services should review the Disadvantaged Business Enterprise (DBE) section, located in Chapter 5 Administrative Requirements for all Programs of the SMP, for more information about the applicable federal requirements. If a subrecipient has a specific DBE threshold question, they should consult with their PTC.

Note: Construction projects exceeding \$1 million are required to have DBE goals.

Vehicle Accessibility

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

Real Property/Construction

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

Appraisals

To establish the value of the property, FTA requires one appraisal and a review appraisal. Both the appraisal and the review appraisal must be performed by TxDOT-certified real estate appraisers. A list of TxDOT-certified real estate appraisers is available from PTN. FTA's prior approval is required when the subrecipient's recommended offer of just compensation exceeds \$500,000, or when a property appraised at \$500,000 or more must be condemned. This process must be followed to purchase real property using FTA funds. For guidance on using property as local match, see FTA Circular 5010.1E.

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

Real Estate Acquisition

There are also environmental factors involved in the procurement of land or facilities. Before an agency can purchase property, FTA must approve the documentation in support of a categorical exclusion, environmental assessment, or environmental impact statement. Any property acquisition ahead of the environmental approval is at the subrecipient's risk. FTA requirements regarding advance acquisition and compliance with the National Environmental Policy Act (NEPA) are unique, and the failure to conduct the NEPA environmental review process prior to acquiring real property jeopardizes future federal participation in a project. FTA also requires a Phase I Environmental Site Assessment, which is a hazardous materials related study, to be performed before FTA will approve any acquisition. Even real property purchased entirely with local funds must adhere to certain FTA requirements, such as the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), to preserve the ability to use FTA funds for a project that would require the use of that real property.

The Uniform Act provides the requirements that federal agencies and project sponsors must comply with to acquire real property when federal funds are used in any part of a project (49 CFR Part 24). These requirements apply whether real property is acquired before or after the completion of the NEPA environmental review process. The Uniform Act is implemented through the regulations found at 49 CFR Part 24. The regulations cover requirements related to the broad categories of appraisal/evaluation, real property acquisition, and relocation assistance.

Prior to real property acquisition, FTA recommends consulting the following:

- FTA Award Management Requirements (FTA Circular 5010.1E) for grant award responsibilities

- FTA Apportionments Notice (published annually) for FTA program policies and procedures regarding funding programs, FTA Environmental SOP #19 (Consideration of Contaminated Properties Including Brownfields) for the assessment and acquisition considerations for property that is or may be contaminated
- FTA Dear Colleague letter on property acquisition under NEPA (Jan. 5, 2016)
- FTA Final Guidance on the Application of 49 U.S.C. 5323(q) to Corridor Preservation for a Transit Project (2014)
- FTA Master Agreement
- FTA Joint Development Guidance (FTA Circular 7050.1B)
- FTA Environmental Impact and Related Procedures, 23 CFR part 771; and Uniform Act, 49 CFR part 24.

Real Estate Property Title Recording

When requesting federal or state funds for construction projects, a subrecipient must provide documentary proof, satisfactory to PTN or TxDOT's General Counsel, that it holds good and marketable title to the land associated with the project, free of all encumbrances. When work is completed, the subrecipient must be the recorded owner of the real property and secure a deed of trust in favor of PTN on that property; TxDOT will provide technical assistance for all real estate transactions. If the property is not owned by the subrecipient outright, such as a county or city owned property, the subrecipient must secure a long-term lease with the property owners (40+) for the project to be considered by PTN.

Projects that may require a signed deed of trust in favor of PTN shall include construction (new or rehabilitation), alteration, or renovation of building structures, or other real property acquisitions.

Procurement of Architectural and Engineering Services

See the Procurement section for information related to procurement of A&E services. The FTA [Best Practices Procurement Manual \(Chapter 6.5\)](#) provides information about retaining A&E firms. Additionally, TxDOT can offer its expertise in this area to a requesting subrecipient.

Peer Reviews

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

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

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

Pre-Construction Meeting

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

- Construction Milestones
- Billing Processes and
- Contingencies

Transportation Facility Accessibility

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

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

Asset Management

Introduction and Authority/Guidance

Asset management is the process through which PTN ensures assets purchased with federal or state funds are being used in compliance with federal and state rules and regulations. PTN inventories subrecipient real property and equipment annually, with an onsite physical inventory occurring every two years.

Federal Authority

All assets purchased with FTA funds shall follow the guidelines established in 2 CFR Part 200, 4049 CFR Part 625 – Transit Asset Management, 49 CFR §37.161 – Maintenance of Accessible Feature, FTA Circular 5010.1E Award Management Requirements, [49 U.S.C. §5334\(h\)](#) – Transfer of Assets No Longer Needed, and other applicable federal laws, regulations, and requirements that affect asset management enacted during the asset's lifespan.

State Authority

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

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

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

As of January 1, 2022, UGMS was superseded by the Texas Grant Management Standards (TxGMS). TxGMS applies to all grants and contracts that begin on or after January 1st, 2022. If a state awarding agency adds funds to a grant that existed before March 1, 2021, TxGMS will apply to it from that point forward, unless the state awarding agency specifically indicates that TxGMS will not apply.

Federal Transit Administration (FTA) Guidance

Property management and continuing control are part of FTA Circular 5010.1E Award Management Requirements and the Infrastructure Investment and Jobs Act (IIJA).

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

State Guidance

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

Overview

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

Transit Asset Management (TAM) Planning and Maintenance

Each recipient and subrecipient must develop a Transit Asset Management Plan addressing all real property and equipment. 5311 subrecipients may participate in a department sponsored Group TAM Plan or opt-out of the group plan and develop their own plan. Basic responsibilities of the plan include the following:

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

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

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

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

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

- Warranty compliance and recovery
- Standards for maintenance subcontractors

TAM Targets

15% (or less) of the rolling stock and equipment should be operating beyond the useful life benchmarks for age established by TxDOT, which is two years beyond each vehicle's Altoona (bus testing) report or similar standard for lifespan.

15% (or less) of facilities should be operated in a condition of 2.0 or lower on FTA's Transit Economics Requirements Model (TERM) scale.

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

Inventory, Control Mechanisms, and Insurance

Inventory

The Public Transportation Management System (PTMS) is an information database for subrecipient contact data, security and safety information, and fleet and facility inventory.

PTMS:

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

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

The inventory activity is an important method for ensuring continuing control of TxDOT's interest in vehicles, real property, facilities, and equipment. Per 43 TAC 31.50, Record

Keeping and Inventory Requirements, TxDOT requires two types of inventory activity. One is an update of mileage and condition of vehicles and an update of condition of facilities, if needed. This may be accomplished by the subrecipient sending a current list of transit assets to TxDOT that includes an update of mileage and condition. Alternately, the PTC can send an inventory report or fleet condition report from PTMS to the subrecipient, requesting an update of the list. The PTC reconciles the agency's submission with existing information and updates the records accordingly. This is commonly referred to as the "annual inventory" or "annual update" and the PTC documents completion by printing out the subrecipient's inventory report, labeling it "annual update" or "annual inventory" and signing or initialing it. The inventory report is automatically date-stamped by PTMS.

In addition to updating the mileage and condition, other inventory activity requires TxDOT staff to physically view all inventoried assets to ascertain their condition, in addition to updating the mileage and condition. During FY23, inventory shall be conducted in person if this is the PTC's assigned year to visit the subrecipient. During this visit, the PTC shall conduct a reconciliation with existing information and record the updates into PTMS. This is commonly referred to as the "physical inventory". The PTC documents completion by printing out the subrecipient's inventory report from PTMS, labeling it "physical inventory" and signing and dating the report. PTN encourages all parties involved to follow safety precautions and to communicate any safety concerns prior to the scheduled visit.

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

Control Mechanisms

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

Restraint Marks (Flags). Prior to January 2002, at the time the subrecipient titled a vehicle purchased with department funds, VTR placed a restraining mark on the title. This "flag" signaled that PTN must approve the sale of the vehicle before VTR processed a change of owner.

Vehicle Liens. In January 2002, TxDOT moved to a different asset control mechanism. Now, at the time a vehicle is titled, TxDOT is listed as a lienholder, and titles are kept in the division headquarter's office.

The subrecipient must secure a deed of trust in favor of TxDOT on any real property purchased after January 2002, with funds provided by TxDOT. Similarly, a deed of trust is secured in favor of TxDOT when grant funds are used to make improvements to

facilities/real property. Any alternative form of recording TxDOT's interest must be approved in writing by the division director. Real property must be included in PTMS.

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

Insurance

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

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

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

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

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

Asset Disposition and Transfer

Vehicles

If a vehicle is no longer used for public transportation purposes, it is to be disposed of through either sale, auction, or transfer to another recipient of FTA funding. Vehicles may not be retained by subrecipients for spare parts or used for non-public transportation operations.

Once a vehicle is removed from service, the subrecipient shall request disposition from the lienholder (PTN). For approval, the subrecipient shall ensure the vehicle meets the criteria outlined in 43 TAC §31.57. Disposition procedures under IJA changed for direct recipients of federal funds; however, TxDOT subrecipients will still follow the FTA Circular 5010.1E as described below:

1. Disposition proceeds are categorized into two categories: those exceeding \$5,000 and those below \$5,000. When vehicle proceeds exceed \$5,000, there are restrictions limiting what a transit agency can do with the proceeds; whereas vehicle proceeds under \$5,000 can be reinvested with more flexibility.
2. When the vehicle's value is below \$5,000 the agency may use those funds for capital, administration, or operating expenditures related to public transportation. The asset proceeds that exceed \$5,000 are reinvested in the same or similar nature to which the contract was originally made per FTA Circular (5010.1E, IV-36 – IV-42, Section 4).

For urban providers that purchased fleet using TxDOT PTN pass-through funds or those that are direct recipients, per 49 USC § 5334(h)(4)(B), which took effect on November 15, 2021, assets with a fair market value of more than \$5,000 may require a refund to FTA depending on FTA's original investment. Contact your FTA representative for more information.

Real Property

All disposition of real property purchased with federal funds involves consultation between TxDOT and the FTA. FTA Circular 5010.1E provides guidance, see Section IV-(2)(j). Real Estate Disposition.

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

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

Other Equipment

The general principles guiding the disposition of vehicles also apply to equipment valued at \$5,000 or less per 43 TAC §31.57. Disposition instructions for equipment are handled on a case-by-case basis.

Civil Rights

Disadvantaged Business Enterprise

PTN DBE Program

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

PTN Overall DBE Goal

PTN, with the assistance of CIV, develops a three-year Overall DBE Goal to set DBE attainment for PTN and subrecipient funds expended on procurable opportunities. The Overall DBE Goal is established by reviewing the amount of funding estimated to be expended by both PTN and subrecipients, and the proportion of ready, willing, and able DBEs compared to the general business population. Once the baseline percentage of DBE use is determined, a correcting calculation is applied to remove any years of past DBE attainment that may skew the DBE Goal. The resulting number is the proposed Overall DBE Goal. The [PTN Overall DBE Goal](#) may be reviewed on the TxDOT website. Our FTA DBE triennial goal methodology for 2021-2023 supports an overall goal of 3.1%.

Means to Meet Overall Goal

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

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

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

DBE Solicitation and Contract Clauses

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

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

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

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

DBE Reporting

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

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

Subrecipients with DBE project specific goals (construction projects) must complete and submit a Commercially Useful Function (CUF) form to certify that work committed to DBEs is actually being performed by the DBEs, regardless of whether the goal was set by the subrecipient or by TxDOT. The review must be performed, a minimum of one time, during the contract period for each DBE and within sixty (60) days of the DBE starting the work. [The CUF form](#) is located on the TxDOT website. The file name is "DBE Commercially Useful Function Monitoring Review" form."The review of this form demonstrates the oversight of the DBE as required by 49 CFR 26.55(c). The form must be signed and dated by the reviewer and submitted to the PTC shortly after the completion of the form. The PTC will

forward a copy of the form to the PTN Facilities Program Manager within the following month.

DBE Assistance to Subrecipients

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

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

Transit Vehicle Manufacturer

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

Civil Rights DBE Recruitment

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

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

Title VI of the Civil Rights Act of 1964

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

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

These procedures describe the requirements that all FTA recipients must follow to ensure that their programs, policies, and activities comply with U.S. DOT Title VI regulations (in accordance with FTA Circular 4702.1B, Title VI Requirements and Guidelines for Federal

Transit Administration Recipients, 49 CFR 21.7(a), 49 CFR 21.9(b)) and the TxDOT Civil Rights Programs.

PTN Title VI Program and Language Assistance Plan

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

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

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

- Nondiscrimination clauses in the TxDOT MGA
- Annual Certifications and Assurances
- Title VI assurances and a review of existing subrecipient Title VI program components
- PTN reviews subrecipient Title VI plans for compliance with the Title VI Program and FTA Circular 4702.1B using a Title VI Plan review checklist. In addition to the requirements in Chapter III of Circular 4702.1B:
 - All fixed route transit providers must include requirements specified in Chapter IV of Circular 4702.1B for service standards and policies.
 - All transit providers that operate 50 or more fixed route vehicles in peak service and are located in an Urbanized Area (UZA) of 200,000 or more people must include all requirements specified in Chapter IV Circular 4702.1B.

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

Complaint Process

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

- Appropriate PTC in TxDOT's District Offices

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

PTCs provide Title VI assistance to subrecipients. The PTN Compliance Team is responsible for oversight of the Title VI program. This includes subrecipient review of submitted Title VI Programs, technical assistance for PTCs, updating PTN’s Title VI Program and ensuring Title VI requirements are met.

PTN may provide periodic Title VI training at semi-annual operator meetings, through webinars, and when requested by subrecipients. PTN utilizes a Title VI program review checklist to cross-check subrecipient Title VI Programs submitted in eGrants. The programs are reviewed for accuracy and verification that they are in compliance with the regulations.

Environmental Justice Requirements

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, requires the U.S. DOT and the FTA to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of programs, policies, and activities on minority populations and/or low-income populations (collectively “EJ populations”). TxDOT and subrecipients of FTA funds shall incorporate environmental justice and non-discrimination principles into transportation planning and decision-making processes as well as project-specific environmental reviews.

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

Equal Employment Opportunity (EEO)

On an annual basis, FTA includes Nondiscrimination Assurance in the annual Certifications and Assurances (C&A) document.

PTN EEO Response

PTN does not meet the threshold of fifty (50) or more transit-related employees; therefore, PTN is not required to submit an EEO Program that meets the requirements of FTA Circular

4704.1A. PTN will work with CIV to include, to the extent possible, the provisions of the FTA Circular in TxDOT's EEO Program.

PTN Subrecipient EEO Response

Subrecipients sign the FTA and TxDOT C&A on an annual basis. This includes FTA's Nondiscrimination Assurance. The signed C&A is uploaded into PTN's eGrants system, the office of record, in the Supplemental section.

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

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

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

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

PTN EEO Monitoring

PTN reviews subrecipient EEO compliance, as part of PTN's biennial subrecipient monitoring, using the PTN Compliance Monitoring form (PTN-129). Monitoring includes determining whether the subrecipient and their contractor(s) meet the threshold to submit an EEO Program plan, and have approved plans submitted to PTN.

Subrecipients that meet the EEO Program threshold (Full or Abbreviated) must upload their EEO Program in the PTN eGrants system, Compliance Forms section. The EEO Program is reviewed by a PTN Compliance Specialist using a program specific checklist. Compliant EEO Programs receive PTN's approval letter, which is uploaded into eGrants, Compliance Forms. EEO Program plans must be updated every four years.

Dual recipients who receive grant funds directly from FTA and receive pass through funds from PTN, submit their EEO program plan directly to FTA. For the purpose of PTN eGrants Compliance Forms, dual recipients who submit EEO Programs to FTA, will include a screenshot of their program submission in TrAMS.

EEO Complaints

PTN also tracks and maintains a list of complaints alleging EEO discrimination for both PTN and subrecipients. Every effort will be made to resolve complaints locally at the subrecipient and/or contractor level.

EEO Technical Assistance

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

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

Americans with Disabilities Act of 1990

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

Each public entity operating a fixed route system shall provide a paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system. To be deemed comparable

to fixed route service, a complementary paratransit system shall meet the requirements of 49 CFR §§37.123-.133.

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

- Response Time
- Fares
- Geographic Area of Service
- Hours and Days of Service
- Restrictions or priorities based on trip purpose
- Availability of information and reservations capability
- Any constraints on capacity or service availability

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

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

ADA Monitoring

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

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

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

Subrecipients who operate fixed route service are required to provide ADA complementary paratransit (CP) service and have an ADA CP plan in conformance with 49 CFR § 37.139. Plans are maintained in PTN's eGrants system, in the Compliance Forms section. ADA CP Plans are reviewed by a PTN Compliance Specialist using a program specific checklist and approvals are documented in eGrants. If a subrecipient makes service changes, the ADA CP Plan should be updated and re-submitted for review and approval.

ADA Complaints

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

U.S. DOT Section 504 Requirements

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

Charter Bus

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

Charter Reports

All charter reports are submitted by subrecipients to PTN on a quarterly basis.

Active Project Grant Agreement (PGA)

Subrecipients with an active PGA are required to submit charter reports in eGrants. Subrecipients document if they provided charter service or if they did not. PTCs check the report for accuracy and approve the report for the PTN Compliance Specialist who has oversight of the program.

Vehicle Only (No active PGA)

Subrecipients, who have a vehicle only and do not have an active PGA in eGrants, submit charter reports to their PTC using the PTN-104 form (spreadsheet) available on the PTN Publications web page (<https://www.txdot.gov/inside-txdot/forms-publications/forms/public-transportation.html>). PTCs check the PTN-104 for accuracy, approve the report, and email the documents to the PTN Compliance Specialist who has oversight of the program.

The PTN Compliance Specialist reviews submitted charter reports in eGrants and submitted PTN-104 forms.

5307 providers will report charter service, relative to non-rural service/assets, directly to FTA in the U.S. DOT Charter Reporting web portal.

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

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

Prohibition of Exclusively School Transportation

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

Tripper Service

The prohibition against the use of buses, facilities and equipment shall not apply to tripper service per 49 CFR 605.13. Tripper service is defined in 49 CFR 605.3 as, “regularly scheduled mass transportation service which is open to the public, and which is designed or modified to accommodate the needs of school students and personnel, using various fare collections or subsidy systems.” Buses used in tripper service must be clearly marked as open to the public and may not carry designations such as “school bus” or “school special”. These buses may stop only at a regular service stop. All routes traveled by tripper buses must be within a subrecipient's regular route service, as indicated in their published route schedules. Subrecipients are not required to report tripper service to their PTCs as

service occurs. Compliance with school transportation regulations will be reviewed by PTCs using the PTN-129 and PTN-137 forms.

Environmental Protections

Environmental Review of Projects under NEPA & Related Laws

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

Categorical Exclusions (CE)

These projects, also known as CEs, are actions that do not individually or cumulatively have significant environmental effects or impacts and are excluded from the requirement to prepare an environmental assessment (EA) or environmental impact statement (EIS) when there are no unusual circumstances (40 CFR 1501.4, 23 CFR 771.118). CEs are not exempt from NEPA; instead, they *are* the NEPA action. A CE must capture the entire proposed action, which includes all connected actions (see Council on Environmental Quality, "Final Guidance on Establishing, Applying, and Revising Categorical Exclusions under NEPA," 75 FR 75628, 75632, Dec. 6, 2010). FTA regulations provide for two sub-types of CEs:

1. C-List CEs (so called because they appear under the FTA regulations at 23 CFR 771.118(c)): these require a FTA Region 6 CE Work Sheet, also known as the PTN 135 (available on the TxDOT website or from your PTC) that includes the scope of work and the rationale/citation of the federal regulations specifying the category under which the project is excluded. The C-list CEs require an adequate description of the project so FTA Regional staff can verify that the CE applies and that other environmental requirements are met. Given the nature of the CEs listed under 23 CFR 771.118(c), documentation demonstrating compliance with environmental requirements other than NEPA, such as Section 106 of the National Historic Preservation Act (Section 106) or Section 7 of the Endangered Species Act, may be necessary before FTA can approve the CE. C-list CEs include activities and projects which have very limited or no environmental effects at all, such as:

- a. Planning
 - b. Technical Studies
 - c. Preliminary Design Work
 - d. Program Administration
 - e. Operating Assistance
 - f. Transit Vehicle Purchases
2. D-List CEs (in 23 CFR 771.118(d)): these normally qualify for a CE, but are projects that involve more construction and greater potential for off-site impacts. D-list CEs normally require documentation to verify the application of a CE is appropriate (i.e., the action meets the criteria established in 23 CFR 771.118(a) and (b)). In general, the narrative documentation for CEs should be brief and can reference a more detailed technical study on a particular environmental topic, if necessary. This should include documents useful to decision-makers that: (1) focus on issues pertinent to the question of environmental importance; and (2) support the determination that there is no potential for a significant environmental impact. Examples of D-list CEs may include:
- a. New Construction
 - b. Expansion of Transit Terminals
 - c. New/expanded Storage and Maintenance Garages
 - d. Office Facilities
 - e. Parking Facilities

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

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

FTA provides guidance to assist project sponsors in applying the specific categorical exclusions located at 23 CFR 771.118 to FTA projects. Guidance for Implementation of FTA's Categorical Exclusions (23 CFR 771.118) is available at <https://www.transit.dot.gov/regulations-and-guidance/environmental-programs/guidance-implementation-ftas-categorical-exclusions>. The PTN Facilities Program Manager is available to assist with determining the appropriate CE category for proposed projects.

CE Work Sheet Procedures

- Agencies must use the latest version of the FTA Region 6 Categorical Exclusion Work Sheet (also known as the PTN 135) for all transit facility construction and renovation projects funded through a PGA with PTN. The Work Sheet can be completed and submitted to the PTC before a project is submitted to TxDOT for federal or state funding and before a PGA is issued by TxDOT. Agencies shall coordinate with their PTC as part of their planning and preliminary engineering phases of all transit facility construction projects.
- The CE Work Sheet is reviewed by the PTC with the assistance of the TxDOT District Environmental Coordinator and submitted to the PTN Facilities Program Manager in Austin.
- PTN headquarters will coordinate with FTA Region 6 for approval of the CE.
- Once FTA approval is received, PTN headquarters will email that information to the PTC for distribution to the agency.
- NOTE: FTA must concur with a CE before the agency can incur costs for federal or state reimbursement for all project development phases after preliminary engineering, including final design, real estate or right of way acquisition, procurement, and construction phases (23 CFR 771.113).

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

Environmental Assessments (EA)

For any project which is not found to be a CE, the lead agency may be required to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The primary purpose of an EA is to help FTA determine whether an EIS is needed. Therefore, an EA is prepared when a project cannot be processed as a CE and does not clearly require the preparation of an EIS or when an EA would assist in determining the need for an EIS. An EA is either a Finding of No Significant Impact (FONSI) or a determination that an EIS must be prepared. One of the keys to a successful environmental review process for environmental documents is to coordinate with TxDOT and FTA during the project initiation,

early when the project concept is evolving. A project which requires an EA may not be included in Category A before FTA has issued a FONSI for the project.

Operators must comply with all provisions of the FTA guidelines in preparing an EA and provide any additional data requested by FTA. EAs are generally required for larger construction projects or projects proposed in sensitive areas. Examples of projects that may require EAs are new construction of terminals and maintenance facilities, rehabilitation of facilities not previously used for public transportation purposes, transit malls, and park-and-ride lots. As a guide for project development purposes, an EA is estimated to require between six months and one year for development, review, and a final determination by FTA.

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

Environmental Impact Statement (EIS)

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

Related Environmental Protections

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

Transportation Conformity with Air Quality Plans

All transportation projects require consideration of the project’s effects on air quality. At the federal level, the Environmental Protection Agency (EPA) is responsible for the regulation and enforcement of the Clean Air Act requirements. The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) are responsible for the regulation and enforcement of NEPA and the Federal-Aid Highways code for projects under their jurisdiction.

At the state level, the Texas Commission on Environmental Quality (TCEQ) is responsible for the regulation and enforcement of the Texas Clean Air Act, which gives them the responsibility for developing the State Implementation Plan (SIP) required by the federal Clean Air Act. Metropolitan Planning Organizations (MPOs) have responsibility for regional transportation conformity analyses. Conformity is the process of determining that federal actions, such as transportation projects, conform to the SIP. FHWA/FTA projects and regionally significant States-only projects must comply with transportation conformity requirements.

Agencies proposing construction activities in air quality non-attainment or maintenance areas should consult with the PTN Facilities Program Manager who will coordinate with the TxDOT Environmental Affairs Division to determine what is required for conformity.

Restrictions on Lobbying

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

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

Labor Protections

Davis-Bacon and Related Acts

The Davis-Bacon and Related Acts apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Title 49 U.S.C. Section 5333(a) requires such action, as may be necessary, to ensure that all

laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of loans or grants under this Act be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. Subrecipients agree to the Davis-Bacon Act provisions in the MGA and annual Certifications and Assurances. PTCs may monitor compliance with the Davis-Bacon and related Acts as part of the quarterly monitoring.

Employee Protection Provisions of Section 5333(b)

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

Public Transportation Safety

FTA’s Public Transportation Agency Safety Plan (PTASP) Final Rule, found within 49 CFR Part 673, requires TxDOT to draft and certify a PTASP on behalf of small public transportation providers that are recipients or subrecipients of Urbanized Area Formula Program (49 U.S.C. § 5307) funding, unless the provider opts to draft their own PTASP. The PTASP establishes processes and procedures to support the implementation of Safety Management Systems (SMS). An overview of the PTASP requirements are outlined below.

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

1. The state shall initially prepare and certify that the recipient or state has established a comprehensive Agency Safety Plan (ASP) that includes, at a minimum:
 - a. Requirement that the Accountable Executive sign the ASP, the board of directors (or equivalent entity) of the recipient approve the ASP and any updates to the ASP
 - b. Documentation of the processes and activities related to SMS implementation described in 49 CFR Part 673 Subpart C, which includes Safety Management Policy, Safety Risk Management, Safety Assurance and Safety Promotion
 - c. Process and timeline for conducting an annual review and update of the safety plan of the recipient and
 - d. Performance targets based on the safety performance criteria and state of good repair standards when established by the US DOT Secretary in the National Public Transportation Safety Plan; assignment of an adequately trained safety officer who reports directly to the general manager, president, or equivalent officer of the recipient.

The PTASP Rule, effective as of July 2019, required agency safety plans to be drafted and certified by TxDOT prior to July 20, 2020. PTN coordinated with thirty-eight (38) applicable transit providers to draft and certify their plans as compliant in advance of the original rule deadline. TxDOT will draft and certify Agency Safety Plans (ASP) for any new small transportation providers that receive Urbanized Area Formula Program (49 U.S.C. § 5307) funding, unless they opt to draft their own PTASP.

Transit providers are required to implement their PTASP, review it at least annually, and if necessary, update the PTASP. Transit providers will certify their compliance with the PTASP rule during their annual Certifications and Assurances.

Drug and Alcohol Program

Drug-Free Workplace Act

TxDOT provides an annual certification that TxDOT, including PTN, is a Drug-Free workplace.

Drug and Alcohol Testing

5311 funded subrecipients, including subrecipients that receive 5311 and 5310 funds, are required to establish a Drug and Alcohol (D&A) testing program in compliance with [49 CFR Part 655](#) Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations of the FTA regulations and [49 CFR Part 40](#) of the U.S. DOT regulations. Subrecipients are required to annually certify their compliance with these federal regulations.

Monitoring

In August 2017, PTN outsourced the drug and alcohol compliance monitoring. The chosen vendor monitors subrecipients and their applicable contractors on a rotation every three years.

Due to the COVID-19 pandemic, for FY 2021, subrecipients were reviewed in a virtual environment.

For FY 2022 and after, subrecipients will be reviewed onsite, as they were prior to the COVID-19 public health emergency. PTN will coordinate with the D&A vendor if onsite monitoring returns to a virtual state or implement a combination of virtual and onsite monitoring, depending on health and safety guidelines in place at the time of review.

During each three-year rotation, the vendor will review the subrecipient's Drug and Alcohol Policy, interview the Drug and Alcohol Program Manager (DAPM), review drug and alcohol records, interview the subrecipient's third-party contractors — Breath Alcohol Technician, Urine Collector, the Substance Abuse Professional, the Medical Review Officer, and if applicable, the Third-Party Administrator.

Monitoring Documentation

Upon completion of the monitoring, the vendor will document subrecipient best practices and any identified deficiencies. The vendor provides PTN and the subrecipient with written documentation of the monitoring results in the form of an Executive Summary and an Initial Report. The latter of the two documents includes any corrective actions and due dates. The vendor will provide technical assistance, during this time period, and verify the corrective actions have been completed.

Upon completion of the corrective actions, the vendor provides PTN and the subrecipient a close-out letter.

The subrecipient's monitoring documents – Executive Summary, Initial Report and Close-Out letter – are saved in PTN's office of record, the eGrants system.

At the end of each monitoring year, the vendor provides PTN an End-of-Year Summary Report, which documents the results of the monitoring year, best practices and other information pertinent to the contract year and/or lessons learned for subsequent monitoring years.

Technical Assistance

During the Year in Which Subrecipients are Monitored for Drug & Alcohol

PTN contracted with a vendor to provide Drug and Alcohol program monitoring for subrecipients on a three-year rotation. The contract with the vendor includes technical assistance solely during the year in which the subrecipient is monitored and only as it applies to the monitoring process – pre-onsite review, onsite review, corrective actions and close-out.

All Other Technical Assistance

All other technical assistance for the D&A program will be provided by PTN's DAPM. This includes assistance for subrecipients whose monitoring occurs outside of the three-year rotation in which the vendor completes D&A monitoring.

Drug and Alcohol Management Information System (DAMIS)

The Drug and Alcohol program requires subrecipients to report their drug and alcohol testing results annually for the previous calendar year. The data is entered into the Federal Transit Administration's (FTA) [DAMIS web portal](#). Subrecipients access the portal by entering an assigned username and password provided by PTN's DAPM.

At the beginning of each calendar year, FTA's Office of Drug and Alcohol Policy and Compliance (ODAPC) provides the PTN DAPM a username and password for PTN and for each 5311 subrecipient, and their contractors, if applicable.

PTN's DAPM emails subrecipient usernames and passwords to each agency. This includes usernames and passwords for each agency's Third-Party Contractors (TPC). Subrecipients are responsible for any data entered by their TPC on the agency's behalf.

Subrecipient Due Date

Subrecipients enter their drug and alcohol results in the DAMIS web portal no later than February 15th of each year. PTN's DAPM reviews the data and shall follow-up if corrections are necessary; otherwise, the DAPM will approve the portal reports by March 15th of each year.

PTN Due Date

PTN does not provide transit service so the department's DAPM shall submit an all zeros DAMIS report by March 15th of each calendar year.

Vehicle/Equipment Incidental Uses

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

- Shopping
- Medical Appointments
- Social Services and Facilities
- Recreational or Social Activities
- Employment
- Rehabilitation Services

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

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

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

Reporting Requirements

The Federal Transit Administration (FTA) defers to individual states, where possible, regarding the development of specific program standards, criteria, procedures and policies in order to provide the states with the flexibility to standardize its management of these Federal programs and related programs.

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

Project Monitoring and Reporting

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

All federal and state contractual and monitoring requirements remain in effect for the duration the subrecipient holds the title to equipment and facilities. Failure to remain in compliance with program requirements, submit data on a timely basis, or meet with TxDOT staff may result in sanctions as severe as withholding funding, contract termination and the return of FTA and/or state funded vehicles, property, and equipment.

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

Milestone Progress Reports (MPRs)

PTN is required to report to FTA on whether the following factors are progressing as outlined in the FTA grant:

- Purpose of the FTA grant is being achieved
- Projects are progressing on time and within budget
- Subrecipients are demonstrating competence and control in executing the project
- Project meets all program requirements
- There is a problem developing which may require FTA resources to resolve

Program Managers (PMs) are responsible for submitting MPRs in TrAMS on annual-basis (30 days after the end of federal fiscal year) or more frequently if needed. PMs will provide a summary of overall project status in TrAMS sufficient to allow FTA

reviewers to understand project issues/delays and reasons for them, even if the FTA reviewer has no previous knowledge of the projects or subrecipient.

Subrecipients are required to submit quarterly MPRs in eGrants. The information provided in MPR reports should be as complete as possible, highlighting progress toward project objectives and any potential problem areas.

Each subrecipient's MPR must include the following data as appropriate:

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

Subrecipient MPRs, along with the PTC's knowledge of the project gained from ongoing conversations with agencies, assist Program Managers in ascertaining grant or project statuses and reporting to FTA.

National Transit Database (NTD)

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

As of April 1, 2021, public transportation providers, serving the Section 5311-funded districts, are required to participate in the FTA Transit COVID-19 Response Program. The FTA has developed an online application to capture COVID-19-related information from transit agencies. FTA will use this data to inform FTA actions in support of the transit industry's COVID-19 response and recovery efforts and implementation of the Federal mask requirement for public transportation.

PTN Process for NTD Reporting

PTN Administration and the Program Support Section are responsible for NTD data collection and reporting. Through technical assistance provided by TTI, the section uses the PTN-128 Reporting System for NTD data collection and analyses. Subrecipients access the PTN-128 web system (described in detail below) directly on a monthly or State Fiscal Year (SFY) quarterly basis to enter NTD operational and financial data used for NTD. Sub-

awardees that receive FTA funds from PTN subrecipients also report their data for NTD to PTN using the PTN-128 web system. After the close of SFY quarters, PTN data reporting staff ensures that all subrecipient reports are received and follows up with subrecipients for missing reports or other data issues.

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

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

PTN is responsible for creating a monthly survey for 5311-funded agencies, as their response is required of the Transit COVID-19 Response Program. The information is gathered and submitted to the Baseline and Recurring forms, located in the NTD. The Baseline Form is a one-time form used to capture data on service reductions and suspensions between March 13, 2020 and February 28, 2021. The Recurring Form is submitted every month to capture data on transit workforce, service impacts and COVID-19 Data.

PTN-128 Reporting System

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

- Total Annual Revenue
- Sources of Revenue
- Total Annual Operating Costs
- Total Annual Capital Costs
- Rural Maintenance Facilities
- Revenue Vehicle Miles
- Ridership

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

The PTN-128 reporting system is PTN's mechanism for collecting uniform public transit data to the state. All federal and state funded transit agencies are required to submit data

to PTN on a quarterly basis during each SFY (September 1 - August 31). This includes the metropolitan transit authorities (MTAs), urbanized area agencies, rural transit districts as well as those providing specialized transportation through the FTA Section 5310, and 5339 programs.

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

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

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

TTI is contracted to maintain and update the PTN-128 system. PTN's responsibility is to coordinate with TTI in providing PTN-128 access to subrecipients. Quarterly and at the end of the Fiscal Year, TTI reviews year-to-date data submittals to check for discrepancies in the PTN-128 system in preparation for publishing the *Texas Transit Statistics* report. The report is published annually with a completed copy due by March 15, as required by the Texas Transportation Code §456.008, and Rider 14 (e), Senate Bill 1 (General Appropriations Act), 87th Legislature, Regular Session.

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

National Transit Database (NTD) Rural Fleet and Incident Reporting

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

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

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

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

PTN will collect metropolitan transit authority, large urban, and small urban incident data from the NTD reporting system.

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

Affected agencies shall notify TxDOT within five days of a reportable incident by submitting a PTN- 101 form. If information is pending, such as the police report, as much information as is available should be entered on the form as "pending" should be entered on the form for submission within the five day window. The completed form may be provided later when the pending information is obtained.

NTD Reporting Reconciliation

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

Monitoring Program

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

Quarterly Monitoring

PTCs conduct quarterly financial reviews of all subrecipients using the Quarterly Monitoring form (PTN-126) located on the PTN Forms website, as required by [43 TAC 31.48](#).

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

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

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

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

Quarterly Reviews are reported to TxDOT executive management on a quarterly basis.

Results are added to the Agency Assessment for an overall monitoring focus of the subrecipients financial and operational management of the federal and state funds.

Compliance Monitoring

PTN PTCs conduct program compliance reviews for subrecipients who receive Section 5310, 5311, 5339 and state funds. The list below reflects the same program areas that FTA reviews with PTN in the State Management Reviews.

PTN uses the PTN-129 form to monitor subrecipients. Each biennium, all subrecipients receive a comprehensive compliance review, which includes:

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

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

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

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

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

Agency Assessment

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

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

Compliance

PTN's primary methods of ensuring compliance with federal and state regulations are to provide clear program guidance and supportive technical assistance to all subrecipients receiving federal and state funds through TxDOT. This is accomplished through the PTC with assistance of PTN HQ Compliance Specialist staff. As appropriate, PTN management may be involved to resolve program issues and challenges. At all times, the primary goal of PTN

is to assist subrecipients in executing a successful transit program and fully meet federal and state requirements as efficiently and easily as possible.

In cases where technical assistance, consultation, and interagency coordination do not achieve compliance with federal and state regulations, the Office of Management and Budget, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), addresses enforcement, including grant sanctions. In accordance with [2 CFR 200.339](#), the remedies for noncompliance state:

If a non-Federal entity fails to comply with the U.S. Constitution, Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in [§ 200.208](#). If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

- a. Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
- b. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- c. Wholly or partly suspend or terminate the Federal award.
- d. Initiate suspension or debarment proceedings as authorized under [2 CFR part 180](#) and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
- e. Withhold further Federal awards for the project or program.
- f. Take other remedies that may be legally available.

Title 43 TAC 31.48 states that a subrecipient that fails to comply with federal or state law, standard or special grant or subgrant conditions, or contractual agreements on which the grant or subgrant award is predicated, is subject to actions under Chapter 9, Subchapter H of this title.

End of document.