

DRAFT

December 19, 2006

State Management Plan
for
Public Transportation
Programs

**OREGON DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSIT DIVISION**

State Management Plan for Public Transportation Programs
Oregon Department of Transportation

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State Management Plan

I. Introduction

This document is the State Management Plan for the Oregon Department of Transportation's public transportation funding programs. The Governor of the State of Oregon designated the Oregon Department of Transportation (ODOT)-Public Transit Division (division) as the administrative agent for USDOT Federal Transit Administration (FTA) Sections 5310 and 5311 and the State of Oregon Special Transportation Fund (STF).¹ (See **Appendix A, Organization Chart.**)

ODOT Mission: To provide a safe, efficient transportation system that supports economic opportunity and livable communities for Oregonians.

Division Values: These are the values that guide our decision making and which we follow in implementing ODOT's mission and goals.

- **Safety:** We protect the safety of the traveling public, our employees and the workers who build, operate and maintain our transportation system.
- **Customer Focus:** We learn from and respond to our customers so we can better deliver quality, affordable services to Oregonians and visitors. Our customers include travelers, freight movers and others who use our services and facilities.
- **Efficiency:** We strive to gain maximum value from the resources entrusted to us for the benefit of our customers.
- **Accountability:** We build the trust of customers, stakeholders and the public by reporting regularly on what we are doing and how we are using the resources entrusted to us.
- **Problem Solving:** We work with the appropriate customers, stakeholders and partners to find efficient, effective and innovative solutions to problems.
- **Positive Workplace:** We recognize innovation and initiative, we show respect for all, and we honor diversity.
- **Environment:** We provide services and facilities in ways that protect and enhance the environment.

1. State Policy Guidance

The 2006 Oregon Transportation Plan (OTP)² is the state's long-range multimodal transportation plan. The OTP is the overarching policy document among a series of plans that together form the state

¹ The Special Transportation Fund is established in ORS 391.800-830 and Oregon Administrative Rules for the Special Transportation Fund 732-005-0000 through 732-020-0045.

² The Oregon Transportation Plan is available at ODOT's Web site at:
<http://www.oregon.gov/ODOT/TD/TP/ortransplanupdate.shtml>

transportation system plan (TSP). The OTP considers all modes of Oregon's transportation system as a single system and addresses the future needs of Oregon's airports, bicycle and pedestrian facilities, highways and roadways, pipelines, ports and waterway facilities, public transportation and railroads through 2030. It assesses state, regional, and local public and private transportation facilities. The OTP establishes goals, policies, strategies and initiatives that address the core challenges and opportunities facing Oregon. The Plan provides the framework for prioritizing transportation improvements based on varied future revenue conditions, but it does not identify specific projects for development.

The Plan supersedes the 1992 Oregon Transportation Plan. The 1992 OTP established a vision of a balanced, multimodal transportation system and called for an expansion of ODOT's role in funding non-highway investments. The 2006 OTP provides a framework to further these policy objectives with emphasis on maintaining the assets in place, optimizing the existing system performance through technology and better system integration, creating sustainable funding and investing in strategic capacity enhancements.

The division's programs are designed to further the elements of the plan that relate to public and special needs transportation.

ODOT's process for identifying transit projects is designed to be consistent with local area planning initiatives. Transportation System Plans (TSPs) created by local communities and state Corridor Plans identify transit needs and opportunities as a part of transportation system analysis. These plans must be in accordance with state-level plans. Transit projects identified through these planning processes are eligible for ODOT grants.³

2. Agency Descriptions, Roles and Responsibilities

A variety of partners are involved in providing public transportation in this state. The following describes the basic roles and functions of some of the major federal, state and local agencies in this partnership.

Federal Transit Administration (FTA)

The FTA headquarters office is responsible for: providing overall policy and program guidance; apportioning funds annually to the state; developing and implementing financial management procedures;

³ ODOT is the direct recipient of Federal Transit Administration funds. Public Transit Division manages these funds and grant programs. The division refers to grant recipients as *grantees*. When referring specifically to grantees in receipt of federal funds through division grants, the term used is *subrecipient*. Some transit agencies also receive direct funds from FTA—these are not generally discussed in this document.

initiating and managing program support activities; and conducting national program review and evaluation.

The FTA regional offices have the day-to-day responsibility for administration of the program. Regional office activities include reviewing and approving state grant applications; obligating funds; managing grants; overseeing the state's implementation of the annual program, including revisions to the program of projects; receiving state certifications; reviewing State Management Plans; providing technical assistance and advice to the states as needed; and performing state management reviews every three years, or as circumstances warrant.

Oregon Transportation Commission (OTC) Members

The OTC member is a liaison from the Oregon Transportation Commission, with no required meetings, readings, or attendance. The OTC member is available to the division administrator for consultation, may facilitate transit-related agenda items in the OTC meetings and assists to inform the division OTC's public transit issues and interests. The commissioner chairs the PTAC committee during the funding review meetings. The commissioner does not vote but conducts the final process. The commissioner acts as "host" if needed in a follow-up report to the OTC.

ODOT Public Transit Division

The Public Transit Division is responsible for state-level transit program development and management. The division provides grant management and oversight for projects and activities supported with state and federal funds². The division manages all grant programs in a coordinated manner and many requirements are the same or similar for all funding sources.

Oregon Transit Association (OTA)

OTA is a nonprofit corporation whose membership is made up of public, private, and private nonprofit transit operators. The purpose of the Association is to assist members in the development and improvement of efficient, safe and convenient transportation services, techniques and methods, facilities and equipment. They develop and disseminate information and assistance in connection with administrative and judicial actions, and decisions of common interest to all transportation providers; provide for professional growth; assist in research; promote state and federal legislation of common interest to transportation providers of this state and oppose detrimental legislation; promote effective communication between governmental bodies and agencies and transportation providers; and assist in the development of statewide and local policies on public transit and support adoption and implementation of such policies.

The Public Transit Division Administrator is a voting member of the OTA Board.

Metropolitan Planning Organizations (MPO)

Portland, Oregon regional area, Salem/Keizer, Corvallis/Philomath, Eugene/Springfield, Medford-area and Bend are urbanized areas with designated MPOs. Each of the metropolitan planning organizations is a recipient of Section 5303 planning assistance and is responsible for coordination of FTA programs within its respective planning area.

Requests for FTA funding from within an urbanized area are submitted to the MPO for inclusion in the MPO's Transportation Improvement Program (TIP). The MPO staff reviews each application for coordination, conformity and fiscal constraint in relation to TIP goals and objectives.

Public Transportation Advisory Committee

In 2000, ODOT established a Public Transportation Advisory Committee (PTAC) to assist Public Transit Division and the department on transit issues and policies. The ODOT Director appoints members.

The committee is a diverse representation of public transportation stakeholders⁴, including: general public providers in urban areas over 200,000 population, urban areas between 50,000 and 200,000, and small communities under 50,000 population; private for profit and intercity bus providers; representatives of the Association of Oregon Counties; Transportation Options Group of Oregon; Oregon Department of Human Services; Oregon State Disabilities Commission; Governor's Commission on Senior Services; Oregon Passenger Rail Advisory Council; and one Oregon Transportation Commission Member.

a. Purpose

The purpose of the PTAC is to provide a forum for public and special-needs transportation providers and stakeholders in Oregon. This group works to improve transit services and programs provided by Public Transit Division.

Members provide input to ODOT and the division on public transportation issues of regional and statewide significance. This work assists ODOT in including appropriate mobility and modal elements in public transportation policy; and ensures that resources available for transportation planning and delivery are leveraged to the highest extent possible to implement public transportation projects.

⁴ See Appendix A, PTAC Membership.

b. Functions

The PTAC serves as a forum for discussing and identifying public transportation issues and solutions. Specifically, the members work collaboratively to:

- i. Make recommendations to Oregon Transportation Commission and the division regarding public transportation policies and programs.
- ii. Make grant funding recommendations to the division and the Oregon Transportation Commission.
- iii. Make recommendations to Oregon Transportation Commission and the division regarding necessary changes to existing transportation rules and laws.
- iv. Respond to issues brought to it by the division, other partners and the public.
- v. Promote statewide advocacy for alternative transportation modes and travel options strategies.
- vi. Support and endorse local community and regional public transportation and alternative travel solutions.
- vii. Disseminate public transportation and travel option information.

Public Transportation Grant Subrecipients

A grant subrecipient may or may not be a provider of transportation services (e.g., a provider), but contracts the service or has some oversight responsibilities for funds. The subrecipient may be either an STF agency (county, transportation district, tribe), city, private nonprofit or, in some instances, a private for profit company. Eligible participants and program responsibilities are described later in the document.

II. Summary of Public Transit Division's Programs

Public Transit Division manages several sources of federal and state funds, planning and technical assistance programs. Although each program has its own program purpose and eligibility requirements, these programs have common elements and, in many cases, a specific project could be funded with two or more sources of funds. The funds are managed in a coordinated manner in order to take advantage of this flexibility. The primary administrative objective for joint management of programs is to create a flexible framework from which Oregon transportation providers have optimum opportunity to access funds and technical assistance. Expanded descriptions for each of the funds and programs are in later sections of this management plan. More information about the planning requirements noted below is included in Section X of this plan.

1. Nonurbanized Area Formula (Rural) Program (FTA Section 5311)

The Nonurbanized Area Formula (Rural) Program provides Federal Transit Administration (FTA) Section 5311 funds for capital, operating, planning and administrative assistance to eligible subrecipients. Transit services funded under this program must be available to the general public. The State of Oregon receives an annual apportionment by formula from Congress. Public Transit Division allocates most of the Oregon appropriation by formula to eligible 5311 subrecipients--local governments, Indian Tribes, and private nonprofit agencies. All subrecipients serve nonurban areas with 50,000 population or less. Some of the funds are distributed as needed to “new start” general public services; the remaining funds are distributed through a discretionary grant process.

5311 subrecipients are expected to participate in developing a “locally developed coordinated public transit-human service transportation plan.”

2. Intercity Bus Program (FTA Section 5311(f))

Fifteen percent of the funds apportioned to the 5311 program are reserved for intercity bus projects. Public Transit Division allocates these funds to its Intercity Bus Program. The division contracts directly with carriers selected through a Request for Proposal (RFP) or Invitation to Bid (ITB) process. The division may also grant funds to public or nonprofit rural providers who operate bus services through the discretionary grant program. The service routes supported by the Intercity Bus Program are selected by a statewide assessment of intercity transportation needs with an emphasis on cities with population greater than 2,500. The primary

goal is to create a statewide transportation system that connects local services to each other and to the national transportation network, including rail.

3. Elderly Individuals and Individuals with Disabilities Program (FTA Section 5310)

Oregon receives an annual apportionment by formula from Congress for the Section 5310 program. Public Transit Division allocates the funds through a biennial discretionary grant program (see Section III) that provides funding for capital purchases benefiting elderly and disabled persons. Eligible subrecipients are counties, mass transit districts, transportation districts, transportation service districts, Indian tribal governments, cities, councils of government and private nonprofit organizations. Private companies may participate through purchase of service agreements with an eligible subrecipient. The funds may be used in all areas of the state—urban, small urban and rural.

Oregon is one of seven pilot project states that are being allowed to use up to 33% of each annual apportionment for operations at a 50/50% match rate. ODOT plans to use the Pilot Program funds to increase the opportunity to finance operating projects benefiting the elderly and individuals with disabilities. The Pilot Program funds will be included in the discretionary grant program; allocation of these funds will be to appropriate eligible operating projects as identified by the application review and approval process. Since ODOT has state funds available for the same purpose and at the same match rate, the actual amount of 5310 funds to be used in the Pilot Program is unknown, and may range from none up to the limit allowed by the federal law. The Pilot program will require ODOT to participate in a data collection and reporting activity to assess the effectiveness of using the 5310 funds for operations.

All projects funded with 5310 must be derived from a “locally developed coordinated public transit-human service transportation plan.”

4. Job Access and Reverse Commute (JARC) Program; (FTA Section 5316)

Oregon receives an annual apportionment by formula from Congress for the Section 5316 program in the small urban (populations > 50,000 and < 200,000) and rural areas of the state. Program purpose is to finance projects benefiting low income individuals to access additional work and work-related opportunities. Since other state and federal funds are available for a similar purpose and at the same match rate, the JARC funds will add flexibility in the Discretionary Grant Program, especially where more funds are needed to finance qualified projects with merit.

All projects funded with 5316 must be derived from a “locally developed coordinated public transit-human service transportation plan.”

5. New Freedom Program (FTA Section 5317)

Oregon receives an annual apportionment by formula from Congress for the Section 5317 program in the small urban (populations > 50,000 and < 200,000) and rural areas of the state. The purpose of New Freedom Program is to finance projects benefiting individuals with disabilities “beyond the ADA” which means projects in addition to that which is required by ADA for fixed-route systems and for new projects benefiting individuals with disabilities in rural areas. Since ODOT has state funds available for a similar purpose and at the same match rates, the New Freedom funds will provide additional flexibility in the Discretionary Grant Program.

All projects funded with 5317 must be derived from a “locally developed coordinated public transit-human service transportation plan.”

6. Special Transportation Fund

The Special Transportation Fund Formula Program is a state-funded program, defined by Oregon Revised Statute 391.800-.830 and Oregon Administrative Rule Chapter 732. The program purpose is to provide an ongoing source of financial support to 42 designated counties, transit districts and Indian tribes for transportation services benefiting elderly individuals and individuals with disabilities. The majority of the STF money (75%) is allocated on a population-based formula. The remaining funds are distributed by the Public Transportation Discretionary Grant Program and as determined by the Oregon Transportation Commission. STF Agencies are designated by statute. The funds are composed of cigarette tax and other state-source funds approved by the Legislature. Many agencies use these funds for local match for federal transportation grants.

All projects funded with STF must be derived from a local plan.

7. Transportation Options Program

The Transportation Options Program helps ODOT achieve national and state goals for land use, air quality, congestion management, energy conservation and promotion of mobility alternatives for commuters. Examples include rideshare programs, park and ride lots, telework and

employer incentive programs to encourage the use of alternatives to driving alone.

Division staff provides technical assistance and contract oversight for transportation options and rideshare programs in Salem, Medford, Albany/Corvallis, Eugene/Springfield, Portland and Central Oregon. The division also assists ODOT regional staff and communities in problem identification and development of appropriate mobility alternatives. This program has the potential to return more dollars worth of public benefits for each dollar invested than any other program area managed by the division. These benefits include:

- a. Greater utilization of transit investments
- b. Public health benefits due to increased walking and cycling
- c. Reduced need to invest in road construction and repair
- d. Improved freight mobility due to decreased congestion.
- e. Increased access to employment for both urban and rural citizens
- f. Reduced transportation costs for citizens

Projects implementing transportation options strategies can be funded through grants from the division, or funded from other ODOT funds.

8. Rural Transit Assistance Program (RTAP); (FTA Section 5311)

The Rural Transit Assistance Program (RTAP) is a training and technical assistance program funded through the FTA Section 5311 program. It has its own annual allocation of funding from Congress. Oregon's program is designed to assist transit operators in non-urbanized areas.⁵ Agencies receiving FTA and STF funds may participate in RTAP-funded opportunities. Agencies funded by federal human service agencies may participate as space and purpose allow.

9. Mass Transit Vehicle Replacement Program

The state legislature designated USDOT Federal Highway Surface Transportation Program (STP) funds to assist urban transit agencies with capital vehicle replacements. This fund opportunity is included in the biennial discretionary grant program. After the projects are selected for funding, the STP funds are transferred from the highway program into the FTA 5307 program for MPO subrecipients to apply directly to FTA for vehicle purchases. Projects are listed in the local MTIP for each urban area.

⁵ More information about the RTAP Program is contained in the RTAP Handbook.

10. Public Transportation Discretionary Grant Program

Public Transit Division conducts a discretionary grant program each biennium. Grants are available to public and private nonprofit and private for profit transportation providers. The program combines several sources of state and federal funds described above into one application process. The division awards discretionary funding through a competitive grant process. Proposed projects are evaluated for purpose and quality prior to making funding decisions. Division staff determines which funding source to apply to successful projects based on specific eligibility criteria for each of the funding sources.

III. Public Transportation Discretionary Grant Program

The Public Transit Division provides discretionary grants to public transportation providers in Oregon. The discretionary grants process is the method by which most of the federal and state funds for local transportation agencies are distributed to eligible projects.⁶ All grants are awarded with the expectation of funds being available. At times, it may be necessary for the division to reduce or cancel a subrecipient grant due to funding limitations or reductions. See Appendix G for the discretionary grant program materials FY 2007-2009.

The Public Transportation Discretionary Grant Program is designed to accommodate a variety of different kinds of funds. The discretionary grant program design allows the various sources of funds to be allocated in a flexible manner. Program applicants do not apply for a specific source of funding; they apply for projects that they describe in terms of type, need, coordination, cost, match and public support. ODOT staff chooses the most appropriate source for the specific project and applicant. Since there are more project applications than funds, the projects that are selected for funding are only those that are highly qualified in accordance with the program criteria.

This consolidated program:

- Provides an opportunity for any potentially eligible applicant to request grant funds;
- Is a competitive process;
- Reduces the number of independent grant program solicitations, thereby reducing the overall staff time and cost of implementation;
- Removes barriers to coordinated services enabling applications for a variety of planned projects;
- Stimulates local resources and matching opportunities to increase the public transportation program; and
- Maximizes coordination of funds available and coordinated administrative processes.

Bringing the funds together in consolidated discretionary grant program is one means to meet the goals of coordination at the state level.

The sources of funding include:

- State of Oregon Special Transportation Discretionary Funds.
- Seniors and People with Disabilities Program (§5310).
- New Freedom Program (§5317).
- Job Access and Reverse Commute (§5316).

⁶ Exceptions are the FTA Section 5311 formula program, and the state STF formula program. See Appendix G for a full description of the Discretionary Grant Program.

- Surface Transportation Program Funds (STP) allocated by USDOT to ODOT and transferred by ODOT to FTA Sections 5310 and 5311.
- Reserved or deobligated funds within the FTA Section 5311 or 5310 programs.
- Other funds are added to the Discretionary Grant Program as they are available.

1. Program Goals

Discretionary projects are selected based on their ability to support:

- a. Strong transit systems in cities of 50,000 or more with a coordinated network of demand-responsive transportation services for elderly individuals and individuals with disabilities in addition to regularly scheduled, fixed route service for the general public.
- b. Coordinated and connected accessible general public transportation in communities of less than 50,000 with an emphasis on service providing affordable and convenient access for the elderly and individuals with disabilities.
- c. Demand-responsive (dial-a-ride) transportation services for elderly individuals and individuals with disabilities where transportation services open to the general public are not yet available.
- d. Intercity bus connections to preserve current service levels, to restore lost service, or to close gaps in the intercity transportation network.
- e. Public transit solutions that provide low-income individuals access to employment and related services.
- f. New public transportation activities that offer services beyond the requirements of the *Americans with Disability Act* of 1990 (*ADA*).

2. Assistance Categories, Purpose, Eligible Subrecipients, and Match

- a. Operating projects:** This assistance category will fund operating and purchased service projects that benefit people with low-income, the elderly and individuals with disabilities in large and small urban areas, and in rural areas. Rural general public operating projects may be included in this category, if the project implements an aspect of service that benefits people with low-income, the elderly and individuals with disabilities. Eligible applicants are non-profit agencies, public entities and Indian tribes. Private for-profit agencies are only eligible in this category for Intercity Bus projects.

Medicaid match projects are included in this category. Medicaid match projects will provide up to 40% of the cost for service provided to eligible individuals; purchased service projects are matched at 89.73% grant share and operations at 50% or 56.08%, depending on

the specific source of funds. Projects in this category must be derived from the Coordinated Plan—for 5311, projects are expected to be included in the plan.

- b. Mobility Management and Planning projects:** The discretionary program will fund mobility management projects that result in more coordination between human service and public transit service providers and improved access to the transportation system for economically disadvantaged individuals, individuals with disabilities, and elderly individuals. These projects may be in large urban, small urban and rural areas. Eligible subrecipients include non-profit agencies, public entities and Indian tribes. For-profit agencies are eligible if they operate intercity bus services. Match for these projects are 89.73% grant share. Projects in this category must be derived from the Coordinated Plan.

Planning projects that are not for mobility management or coordination, for example transit service design plans or facility siting plans, are available only to non-profit agencies, public entities and Indian tribes in rural areas. These projects have an 80% grant share.

- c. Intercity Bus projects:** The discretionary program will fund intercity capital, operating, planning and mobility management projects. Eligible subrecipients include non-profit agencies, public entities, Indian tribes and for-profit intercity bus providers. Match for capital and mobility management projects is 89.73% grant share. Operating projects have a 56.08% grant share and planning has a 80% grant share. Projects funded in this category should be consistent with the Coordinated Plans for the area served.

- d. Vanpool projects:** Limited funds from STP transfers are available for vanpool pilot projects. Projects must be fully developed through the local transportation planning process prior to funding. Applicants are limited to public entities in urban and rural areas, including Indian tribes. The program will support up to one-half of the cost to operate a van-pool for up to two years.

- e. Capital projects:** The discretionary program will fund a variety of capital projects including, but not limited to, preventive maintenance, vehicle replacement, and facility construction. The purpose of capital projects is to benefit services provided to the elderly, individuals with disabilities and people with low-income and must be derived from the Coordinated Plan. The Mass Transit Vehicle Replacement program is also included in this project category. Match for capital projects is 89.73% grant share. Eligible subrecipients include non-profit

agencies, public entities, Indian tribes and for-profit intercity bus providers.

3. Project Selection Criteria and Method of Distributing Funds

All grant applicants are screened for eligibility, and each project is subjected to a technical evaluation and committee review. Local STF Agencies, designated as coordinating agencies by the division, have a significant role in prioritizing projects. The division provides the technical review. The Public Transportation Advisory Committee acts to review the grants and makes final recommendations to the Oregon Transportation Commission.

IV. FTA Section 5311: Non-urbanized Area Formula (Rural) Program

Oregon is predominantly a rural state. With the exception of six urbanized areas located in the Portland tri-county area, Salem, Eugene, Corvallis (Willamette Valley corridor), Medford (southern Oregon) and Bend (central Oregon), the rest of the state is rural by FTA standards. Outside of these urbanized areas, there are more than 200 other cities and towns, numerous unincorporated areas, and nine federally recognized Indian Tribes.

In some geographic areas—particularly eastern and southeastern Oregon and isolated rural areas in western Oregon—there are large distances between small towns or Indian reservations and the next larger community. Basic resources such as medical care, educational and work opportunities often are not available without traveling to an adjacent small urban area. Some of Oregon's counties are considered frontier rural by the U.S. Department of Health and Human Services.

Public Transit Division's Section 5311 program currently supports 35 agencies, including one Indian Tribe, that provide rural transportation services in all parts of Oregon. Local resources to support rural transportation are very limited, and as a result the Oregon program uses its annual 5311 appropriation to support primarily the operating costs of the rural transportation providers. Most of these transportation services would not exist without the help of federal and state funding.

1. Program Goals and Objectives

Goals for the Section 5311 program were originally established by the Oregon Transportation Commission in the early 1990s and are still relevant for the program:

- a. Assist in the development and improvement of public transportation service.
- b. Promote the orderly, efficient and economical operation of small city and rural transit systems.
- c. Ensure continued local support for public transit.
- d. Provide funds for capital equipment purchases.
- e. Distribute the funds fairly and equitably to all areas of the state.

The division uses periodic workshops and meetings with its 5311 providers to evaluate the program and make recommendations for changes or improvements. A series of workshops in 1997-98 resulted in a better method of evaluating projects for funding and a three-part formula used to distribute funds. In 2002, PTD conducted a 5311 Summit that resulted in other recommendations for improvements.

The overall goal of the Oregon program is to ensure the rural transportation providers have financial stability from year to year and no interruptions in established services. Objectives for the next five years, based on recommendations from the 5311 Rural Program Summit include:

- a. Continue the New Start program allowing new service providers or new services to be evaluated for 5311 funding.
- b. Identify existing service areas where there are overlaps in service; develop strategies to eliminate duplication of services and enhance coordination to maximize available funding.
- c. Establish a minimum level of planning required, including public involvement, as a condition of receiving federal funds.
- d. Establish a regional outlook for the 5311 program; identify gaps in service statewide and target future 5311 funds (through the New Start Program) to the rural areas without general public service.
- e. Continue outreach to Oregon's Indian Tribes regarding the 5311 program; encourage planning and development of general public transportation programs, if needed.

2. Eligible Subrecipients

FTA Section 5311 funds are available to entities that:

- a. are public bodies, Indian Tribes, or private non-profit agencies with non-urban service areas of 50,000 population or less;
- b. provide transportation services that are not restricted in any manner to the general public;
- c. demonstrate compliance to state and federal rules and regulations; and
- d. have match available.

The division considers environmental justice principles when reviewing subrecipients' applications for funding.⁸

Occasionally Public Transit Division develops projects as a primary recipient of 5311 funds. Usually these are coordination or research projects that benefit the entire state.

Participation of private for profit providers in the 5311 program occurs when public agencies contract with a private provider to operate its transit service. Several 5311 agencies use private operators for service. The 5311 subrecipients are encouraged to provide for participation of private transportation operators in their programs.

⁸ See Section IX, # 2 for more information on Environmental Justice.

The joint FTA/Federal Highway Administration (FHWA) statewide and metropolitan planning regulations (49 CFR part 613 and 23 CFR part 450) offer an opportunity for public involvement, including that of private operators of transit systems, in the development of local and regional transportation plans.

3. Eligible Services and Service Areas

Projects funded with FTA Section 5311, or from STP transfers to the Section 5311 program, must provide services for the general public. ODOT defines “general public” as the entire population of communities, including, but not limited to, defined segments such as employees or clients of particular agencies. Service defined as general public and funded with Section 5311 must reasonably accommodate anyone who needs a ride and does not exclude or discriminate against a particular group within the community.

Applicants define their service area during the grant application process. Services include, but are not limited to:

- a. Fixed-route and demand responsive services provided in nonurban areas (population of 50,000 or less).
- b. Services supporting transportation of nonurban populations to and from the urbanized area. (A reasonable method of cost allocation between the urbanized and rural programs is the responsibility of the subrecipient with concurrence of division staff).
- c. Local commuter services.
- d. Regional services that may cross state lines, so long as the 5311 agency has the appropriate approvals and licenses from ODOT Motor Carrier Division, insurance, and the services are compatible with the policies of the 5311 agency.

The division allows services to be designed to maximize use by members of the general public who are transportation disadvantaged (e.g., elderly individuals, low-income, minorities) but they may not be restricted from carrying other members of the general public.

To qualify for funding under the Section 5311 program, general public services must:

- a. be marketed as “public transit service;”
- b. use vehicles marked with a program name that clearly identifies them as public transit and for general public use;
- c. maintain open access policies that do not limit services to a particular type of passenger; and

- d. ensure the entire capacity of the system is available to the general public. (Assessment of service capacity and ridership is performed during the application and monitoring processes. If users of the system appear to be predominantly elderly and disabled persons, then the 5311 program manager will perform further evaluation to determine if the service is appropriate for 5311 funding).⁹

Subrecipients are encouraged to establish service contracts, especially with human service agencies, as part of local coordination of transportation services and to prevent unnecessary duplication of transportation services. However, passengers who are guaranteed rides because of a contract between the transit program and an agency representing the passengers are not considered to be general public if:

- a. during service delivery, other passengers are not eligible to ride, or
- b. the service contract creates disproportional limitation to service available to other members of the general public.

Charter services and exclusive school bus services are ineligible for funding assistance. Services provided to Head Start students, even when using yellow school buses, are eligible.

Expenses associated with meal delivery are not eligible for funding assistance—costs must be borne by the nutrition program which provides the meals. Limited use of equipment supported by FTA Section 5311 (also Section 5310) may be used to support meal delivery services and package delivery as long as these uses are incidental to the primary purpose of the service.¹⁰

4. Eligible Assistance Categories

The FTA Section 5311 program will reimburse eligible capital, administration and operating expenses directly attributed to system operations. Administrative expenses are treated as “operating expenses.”

⁹ Percentage of ridership that is general public versus elderly and disabled is not used as the sole determination of a general public service. For example, the population of a local area or county may be predominantly elderly citizens; or the agency may have a service design that maximizes use by the transportation disadvantaged, as allowed by FTA and ODOT. Public Transit Division looks at the system in its entirety and any extenuating factors to determine if it is a general public transportation system.

¹⁰ *Incidental* is defined as service that does not result in decreased service quality, a significant decrease of useful life of the capital equipment, or a decrease in the availability of public transportation services.

Reimbursable administrative expenses include salaries and fringe; office expenses associated with administration; contract services (accounting, bookkeeping, attorney fees); and educational expenses associated with administrative staff training. Examples of ineligible expenses include gifts, lobbying, unrecoverable receivables, and budget deficits associated with the agency.¹¹

Reimbursable operating expenditures include fuel, oil, replacement tires, replacement parts, driver, dispatcher and mechanic salaries and fringe, driver educational expenses, vehicle leases, vehicle licensing, maintenance and operating contracts, insurance, and other costs directly associated with operations of the system. Also, capital-type expenditures costing less than \$5,000, in the aggregate, are considered part of operating expenses.

Capital expenditures (those costing \$5,000 or more and have a life expectancy of two years or more) include vehicle purchases and extended warranties, computer hard and software, radios and communication equipment, intelligent transportation systems, passenger shelters, and other facilities. In certain situations, expenses associated with vehicle maintenance and supplies may be treated as capital.

5. Project Selection Criteria and Method of Distributing Funds

Projects selected to receive Section 5311 grants are general public services operated in cities of 50,000 population or less and rural areas, and are operated, or contracted for, by eligible public bodies, Indian Tribes, and private nonprofit agencies.

Because the Section 5311 program is not operated as a permanent entitlement program, the division uses an annual application process. All agencies complete a grant application form and must demonstrate that they are eligible to continue to receive funding. However, because the 5311 funds are used primarily for operating, and the funds are critical to maintaining continuous services, the division generally considers the 5311 agencies eligible for funding from year to year,

¹¹ Refer to federal Office of Management and Budget (OMB) Circular A-87 for public agencies and OMB Circular A-122 for private non profit agencies for more information about eligible and ineligible expenses and other grant management information.

unless the annual application or other circumstances demonstrate that an agency is no longer eligible.¹²

Criteria for selection include adequate financial management and available match, and adherence to federal and state requirements. Division staff verifies through its application process that each designated subrecipient is providing service that meets the definition of general public and meets other program expectations and requirements.

The 5311 operating funds currently are distributed using a four-part formula that includes a base allocation, plus service area population, annual passenger trips and annual service miles. The population will be updated every three years unless a more recent census update is available. The annual passenger trips and service hours are updated annually for the formula. The data come from quarterly reports submitted by each subrecipient.

Public Transit Division may provide funding for capital or planning projects from 5311 funds. The division uses the biennial discretionary grant process to select projects in these categories.

6. Local Share and Local Funding Requirements

Public Transit Division does not provide state matching funds for the 5311 program, so all local match is provided by subrecipients. The most frequently used sources of match are STF formula funds (considered local funds), income derived from local tax revenue, revenue sharing, service contracts, package delivery, advertising, grants, donations, and other sources.

Public Transit Division requires a 43.92 percent match for operating grants. The division reimburses 56.08 percent of eligible project expenditures, with grant recipients providing the other 43.92 percent of the project funding as match. The local match for capital purchases is 10.27 percent.

According to FTA requirements, fare box revenue must be deducted from operating expenses to determine the *net operating deficit*, which is used as the basis for grant reimbursement. Public Transit Division defines *fare box revenue* as money paid directly by the passenger to the service provider, and includes fares that may be reimbursed by another agency or through a taxi-ticket program, and sales of tickets

¹² These circumstances include, but are not limited to, an agency's transition from 5311 to 5307 funds, elimination of general public service, or determination by Public Transit Division that an agency no longer meets state or federal requirements for receiving grant funds.

and passes. Fare box revenue does not include income derived from service contracts, even if the payment for the contract is from a federal source.

USDOT funds cannot be used to match ODOT-Public Transit Division grants. However, other federal funds can be used as match to the extent allowed by each federal program. It is the responsibility of grant recipients to verify whether other federal grants they receive can be used as match for FTA grants.

Service contract revenue, such as funding received through a Medicaid brokerage, is eligible to be used as match. Federal funds received directly from a state or local agency (not a service contract) follow the guidelines for federal grants stated above.

For FTA Section 5311, the use of other federal funds allowed as match is limited to no more than one-half of the local match requirement. Any over-match by federal funds is subtracted from the total operating expense in calculating the net operating deficit.

For operations projects, matching funds may be a combination of local funds, some federal funds (other than USDOT) and in-kind contributions (limited to one-half the local match requirement). Matching funds must be integral to the project, regardless of source. On a case by case basis, the value of donated supplies, time and services can be used for local match. The value of such donations is determined by each entity with concurrence by the Rural Program Manager.

In-kind contribution is not allowed as match for vehicle purchases.

7. New Start Program

Public Transit Division manages a New Start Program for new public agencies that want to apply for funding, or current 5311 agencies that want to provide new services. The focus of the New Start Program is to develop transportation services in rural geographic areas with minimal or no service. The division reserves funds each year for potential New Start projects.

Agencies must establish a need for the project through a planning process that includes such things as a community needs assessment, a service design plan or system plan, and a financial plan. New Start agencies fill out an application form, a pre-grant compliance questionnaire, and usually work with division staff for several months prior to the receipt of funds.

Generally, the division will fund only one grantee per geographic area. The evaluation of New Start projects will take into account whether there are other agencies in the same geographic area providing similar services.

New Start applications may be submitted at any time according to the New Start guidelines.

8. Training Requirements for Subrecipients

Each year Public Transit Division provides training opportunities for subrecipients receiving FTA Section 5311 funding. Some training is through scholarships to attend state, regional or national workshops or conferences that provide pertinent transit-related information for subrecipients.

Other training is provided by the division, sometimes in conjunction with FTA, regarding specific FTA grant requirements. Also, the division arranges for workshops that address grant application requirements, quarterly reporting or other grants-related topics.

Public Transit Division expects subrecipients to take advantage of training to ensure management capability of the federal programs. At the division's discretion, Section 5311 grant recipients may be required to attend transit-related training.

9. Basic 5311 Grants Management Policies

Operating Funds:

- a. The 5311 program is open to any eligible agency wishing to apply for funding; however, Public Transit Division generally does not fund more than one 5311 provider per geographic area.
- b. Agencies must meet the criteria identified under Section III, parts 2 – 6 of this section.
- c. Operating funds are granted each fiscal year. The division may use pre-award authority to authorize reimbursements beginning July 1 of each year, if grant agreements are executed later than July 1.
- d. The funds are granted on a “use it or lose it” basis for each fiscal year. Unused funds are transferred to a reserve account and held for New Start Program projects or projects awarded through the division's Discretionary Grant Program.
- e. All agencies must submit a reimbursement request in order to receive reimbursement. The actual amount of reimbursement is limited to the designated amount of funding as determined by the

formula and the local grant agreement, provided agencies demonstrate their local match.

- f. All agencies must submit quarterly financial and performance reports even if they are not requesting reimbursements. The data contained in the reports is used for the division's Public Transit Management System and used to implement the 5311 allocation formula.

Capital and Planning Projects:

- a. Applications for capital and planning projects are accepted during the division's Discretionary Grant Program application process.
- b. To close out federal grants in a timely manner, the division implemented the following policies:
 - 1) Capital and planning grant agreements are generally awarded for a two-year period, with an option to extend the agreement for a third year if approved by the division administrator.¹³
 - 2) If a project is not, or cannot, be completed within the two or three -year time frame, the division may re-negotiate a completion date with the subrecipient. Decisions to cancel a project for non-performance by a grant recipient will be made on a case-by-case basis.
 - 3) For facilities projects, division staff will visit the completed facility, or require the subrecipient to submit pictures of the facility, or both, prior to final reimbursement on the grant. This is to ensure that the facility was completed as described in the grant agreement, and that basic ADA requirements (parking, signing, curb cuts, etc.) have been met.
 - 4) The division will not approve an application for grant funds for a planning or capital project that has already been initiated, unless the division provided **written** pre-award authority to begin the project. To be eligible for a pre-award, the project must have met all FTA statutory, procedural and contractual requirements and qualify as a "Category A"¹⁴ project in the federal program of projects. Pre-award authority does not guarantee funding if ODOT fails to receive appropriations, limitations or other expenditure authority sufficient to allow ODOT to execute the grant agreement.

¹³ Exceptions are projects that may take several years to complete, such as larger facilities projects involving several stages of development and construction, and planning projects considered complex and technical in nature.

¹⁴ "Category A" is an FTA term which means a project certified by the state as having met all the Federal statutory and administrative requirements for approval applicable to both the project activities and the subrecipient that will carry out those activities. Category A projects are eligible for federal funding.

- 5) The division will reimburse expenditures for a planning or capital project beginning with the start date cited in the grant agreement. Any expenditure by the agency prior to the start date is the responsibility of the agency, and will not be reimbursed by the division.
- 6) All agencies with capital or planning grants are required to submit project status reports with their quarterly reports.

V. FTA Section 5311 (f): Intercity Bus Program

1. Program Goals and Objectives

The Oregon Transportation Commission approved the Oregon Intercity Bus Program Policy in May 1998. The primary goals of the Oregon Intercity Bus Program are to support a reliable and safe network of interconnected, accessible passenger services between Oregon cities with populations of 2500 people or more; and to provide regional connectivity in coordination with passenger rail. The Intercity Bus Program objectives include identification of priorities of service and potential new service, service coordination and technical assistance.

The Intercity Bus Program is funded with 15 percent of the annual FTA Section 5311 appropriation. Grant funding is guided by Intercity Program policies, ODOT Corridor Plans, the ODOT Passenger Rail Policy and local needs and interest by communities, which is necessary to long-term success.

Where the state provides financial support to rural intercity connections for passenger rail and bus, the state funding may be used to match the federal 5311(f) rural intercity service.

The State of Oregon continues to have unmet intercity needs, and has not submitted a Governor's Certification to FTA stating that the intercity bus needs of the state are being adequately met.

2. Eligible Subrecipients

Intercity Bus grants are available to private providers, and any other public entity providing service that supports and develops intercity service, information, or coordination. The Intercity Program is unlike other grant programs in that the preferred recipients are private providers, although public agencies are also eligible.

3. Eligible Services and Service Areas

Intercity grants may benefit any geographic area of the state which has a gap in intercity service. Grants must be related to services that have limited stops over longer distances, are ground transportation, are part of or feed into the national bus and rail network, or connect rural communities with larger urban areas. Providers may also carry small package freight incidental to providing transportation of people.

4. Eligible Assistance Categories

Discretionary grants provide financing for a variety of project proposals:

- a. Planning proposals such as needs assessments, feasibility studies, service coordination and marketing plans, and service development strategies.
- b. Capital proposals necessary to maintain, expand and offer new service, such as vehicle purchases, facilities, passenger shelters, computers and capitalized maintenance.
- c. Operating assistance proposals to preserve or expand current operations to fill gaps in intercity connections.

5. Project Selection Criteria and Method of Distributing Funds

Funding is offered on a biennial basis, through the Discretionary Grant Program. Public Transit Division reviews all funding applications for threshold criteria.

If a project meets threshold criteria (applicant eligibility, project type), it is evaluated in a public process and ranked according to value-based selection criteria. The criteria include project justification and need, project planning, local coordination efforts, project efficiency and effectiveness, and how the project fits into overall statewide network priorities.

Project selection is based on the ranking of each project proposal. Project year and any limitation of funds available are used to determine the number of projects that can be funded in a given cycle, and all proposals may not be funded.

The state may fund intercity projects of statewide importance outside the discretionary grant process. These projects would be submitted to the PTAC for review and approved by the Oregon Transportation Commission.

6. Local Share and Local Funding Requirements

Any capital projects funded with intercity funds require a 89.73/10.27 percent match regardless of the type of entity (public or private) receiving the grant funds. Operating projects require a 56.08 percent grant share. Public and private operators are expected to provide the other 43.92 percent of operating costs.

The division has the option of developing either a grant agreement or a contract with private for profit operators. This decision is made in consultation with the operator.

7. Basic 5311(f) Grant Management Policies

Operating Funds:

- a. Operating funds in most cases are awarded in an intercity discretionary grant application process, and normally awarded for two years.
- b. Agencies must meet the criteria identified under Section IV, parts 2 – 6.
- c. Any unused grant funds at the end of the agreement or contract period will be transferred to a reserve account and held for other intercity projects.
- d. All agencies must submit a quarterly report in order to receive reimbursement. Private for profit operators may submit reports monthly. The actual amount of reimbursement is limited to the designated amount in the local grant agreement (or contract), provided agencies demonstrate their local match.
- e. All agencies must submit quarterly financial and performance reports even if they are not requesting reimbursements. The data contained in the reports is used for the division's Public Transit Management System.

Capital and Planning Projects:

- a. Capital and planning funds are awarded in an intercity discretionary grant application process.
- b. To close out federal grants in a timely manner, the division implemented the following policies:
 - 1) Capital and planning grant agreements generally will be awarded for a two-year period, with an option to extend the agreement for a third year if approved by the division administrator.¹⁵
 - 2) If a project is not, or cannot, be completed within the two or three-year time frame, the division may re-negotiate a completion date with the subrecipient. Decisions to cancel a project for non-performance by a grant recipient will be made on a case-by-case basis.
 - 3) For facilities projects, division staff will visit the completed facility, or require the subrecipient to submit pictures of the facility, or both, prior to final reimbursement on the grant. This

¹⁵ Exceptions are projects that may take several years to complete, such as larger facilities projects involving several stages of development and construction; and planning projects considered complex and technical in nature.

is to ensure that the facility was completed as described in the grant agreement, and that basic ADA requirements (parking, signing, curb cuts, etc.) have been met.

- 4) The division will not approve an application for grant funds for a planning or capital project that has already been initiated, unless the division provided **written** pre-award authority to begin the project. To be eligible for a pre-award, the project must have met all FTA statutory, procedural and contractual requirements and qualify as a “Category A”¹⁶ project in the federal program of projects. Pre-award authority does not guarantee funding if ODOT fails to receive appropriations, limitations or other expenditure authority sufficient to allow Public Transit Division to execute the grant agreement.
- 5) The division will reimburse expenditures for a planning or capital project beginning with the start date cited in the grant agreement. Any expenditure by the agency prior to the start date is the responsibility of the agency, and will not be reimbursed by the division.
- 6) All agencies with intercity capital or planning grants are required to submit project status reports with their quarterly reports.

¹⁶ “Category A” is an FTA term which means a project that is eligible for funding is certified by the state as having met all the Federal statutory and administrative requirements for receiving funds. Both the project activities and the subrecipient that will carry out those activities are approved.

VI. FTA Section 5310: Elderly Individuals and Individuals with Disabilities Program

The FTA Section 5310 program supports services for elderly and individuals with disabilities. The State of Oregon receives an annual apportionment by formula from Congress, and Public Transit Division uses the biennial Discretionary Grant Program to allocate the 5310 funds to eligible subrecipients.

The Discretionary Grant Program is also used to allocate any STP funds that are transferred from FHWA to FTA for the 5310 program.

1. Program Goals and Objectives

The goal of Public Transit Division's Section 5310 program is to improve mobility for the elderly and disabled individuals living throughout Oregon. The funds are available for use by agencies in all areas of the state – urbanized, small urban and rural. Because financial resources are limited, one of the program's goals is to ensure that funds will be invested in projects that represent the highest and best use.

Public Transit Division uses the standards identified in the Oregon Transportation Plan for service to the elderly and individuals with disabilities. The standards set out broad guidelines that the division uses to design and manage the discretionary grant process.

Because Oregon has a strong state-funded Special Transportation Fund Program (STF), Public Transit Division manages the 5310 program to be complementary with the STF program. For example, the STF formula funds are usually used for operating services, while the 5310 grants are often used for vehicle purchases to support those services. Sometimes the 5310 purchased services option (which is uniquely defined as capital in the 5310 program) may be used to provide operating support for contracted elderly and disabled services.

One of the goals of the 5310 program is to encourage Indian Tribes to access funding for their programs. Several tribes participate regularly in the 5310 program.¹⁷

2. Eligible Subrecipients

Both FTA and Public Transit Division value coordination. With passage of SAFETEA-LU legislation, coordination has become a requirement for Section 5310-funded projects. Therefore, the Division will ensure that

¹⁷ See Section IX, #2 for information on Environmental Justice.

FTA 5310 funds projects derived from a coordinated human service/transit plan.

There are three categories of eligible subrecipients of Section 5310 funds:

a. Private nonprofit agencies.

Private nonprofit agencies are eligible to receive funds if the services they provide are coordinated with other public transportation services and human service agencies. They must not duplicate transportation services already available and the agency must demonstrate that the investment of grant funds benefits the community's overall transportation program, including by meeting needs otherwise not met.

In several Oregon communities, the lead agency for transportation coordination and for the delivery of public transit services is a nonprofit entity. These lead agencies receive multiple local, state and federal funds for public and human service transportation, often on behalf of other agencies in the area, and in partnership with an STF Agency.

Public Transit Division requires potential applicants to submit documentation of nonprofit status when submitting an application for funding. The Oregon Secretary of State maintains a website of all agencies that have been determined to be nonprofit and their current registration status. The division checks the status of nonprofit applicants prior to completing agreements and amendments, and at such other times that the information may be required.

Agencies providing transportation services to clients only (service is not open to the public or non-client elderly or individuals with disabilities) must allow federally-funded vehicles to be used by public providers when the vehicles are not scheduled for client services.

b. Public bodies that certify to the Governor that no nonprofit corporations or associations are readily available in an area to provide the service.

There are no public bodies that have submitted such certification at this time.

c. Public bodies approved by the state to coordinate services for the elderly and persons with disabilities.

Public Transit Division designates the following public agencies as coordinators of services for public transportation, including for elderly

persons and persons with disabilities. These agencies represent the interests of other public and private entities in the regional area, and are the recipients of multiple sources of local, state and federal funds for public and human service transportation.

- 1) Organizations formed under Oregon Revised Statutes 190 including those established for the purpose of public transportation and councils of governments.
- 2) Counties, transportation districts and Indian Tribes designated by ORS 391.800 as recipients of Special Transportation Funds, and the agency that the county, transportation district and Indian Tribe may designate to act on its behalf.
- 3) City and county governments, mass transit and transportation and county service districts, and Indian Tribes acting as lead agencies for the delivery of public transportation services within a regional area.

3. Eligible Assistance Categories

The Public Transit Division offers discretionary grants in a variety of categories. The division may identify different priorities in a particular grant cycle, but generally the categories are:

- a. Vehicle Preservation: replacements, rehabilitation, preventive maintenance
- b. Purchase of new vehicles
- c. Purchase of service
- d. Other capital projects such as, but not limited to, facilities, computers, radios and communication equipment, and signage.

All vehicle requests must meet the requirements of the Americans with Disabilities Act (ADA). Agencies wishing to purchase non-accessible vehicles must sign a Certification of Equivalency annually assuring the division they have the ability to meet ADA requirements.

4. Project Selection Criteria and Method of Distributing Funds

Public Transit Division maintains a list of all eligible 5310 recipients. All are notified directly of funds availability and are invited and encouraged to participate in the program. The division uses press releases to further notify the public that discretionary grants are available. Local STF Agencies, designated as coordinating agencies by the division, assist the division in notifying public and nonprofit agencies within their geographic areas about the grant program.

Division staff provides technical assistance to agencies, as needed, to help them develop grant applications.

STF Agencies review and prioritize all projects benefiting transportation for elderly and disabled persons. The review includes consideration of applicant eligibility, project type and justification, merit, coordination efforts, public involvement, and environmental justice. STF Agencies may establish other review criteria as well, such as local priorities, project planning, efficiency and effectiveness.

Public Transit Division performs a technical review of all applications. A listing of all projects is presented to the Project Selection Committee for final consideration and approval.

Discretionary grants are awarded biennially. Usually applications are available in the fall of each solicitation cycle. The process of evaluating applications and making final grant awards takes six to eight months. However, the timing of the application and grant awards process depends on federal and state legislation. If necessary, the division may adjust the timing of the grants process. The division publishes a schedule of the discretionary grant process as soon as it is available.

5. Local Share and Local Funding Requirements

The match rate for the 5310 program is 89.73 percent local funds. The match rate for projects funded from STP transfer funds to the 5310 program is 89.73/10.27 percent, which is the Federal Highway Administration match ratio for STP funds. If the operations pilot program utilizes the opportunity to apply operations funding in 5310, the match rate is 50 percent.

State STF formula funds granted to agencies through the designated STF Agency are considered “local funds” and may be used as match for 5310 funds, along with other local resources available to local agencies.

The actual amount of reimbursement for any project is limited to the award amount, even if project costs exceed estimates. It is the responsibility of the project applicant to “make up” any shortfalls in project funding.

6. Training Requirements for 5310 Subrecipients

The Public Transit Division may periodically provide workshops on such topics as vehicle procurement, vehicle disposal, quarterly

reporting or other topics related to management of vehicles. Agencies that receive 5310 funds only must attend training in one or more of these areas if requested to do so by the division.

7. Basic 5310 Grant Management Policies

Capital Projects

- a. Applications for capital projects are accepted during the division's Discretionary Grant Program application process.
- b. To close out federal grants in a timely manner, the division implemented the following policies:
 - 1) Capital grants other than facilities generally will be awarded for a two-year period, with an option to extend the agreement for a third year if approved by the division administrator.¹⁸
 - 2) If a project is not, or cannot, be completed within the two or three-year time frame, the division may re-negotiate a completion date with the subrecipient. Decisions to cancel a project for non-performance by a grant recipient will be made on a case-by-case basis.
 - 3) For facilities projects, division staff will visit the completed facility, or require the subrecipient to submit pictures of the facility, or both, prior to final reimbursement on the grant. This is to ensure that the facility was completed as described in the grant agreement, and that basic ADA requirements (parking, signing, curb cuts, etc.) have been met.
 - 4) The division will not approve an application for grant funds for a capital project that has already been initiated, unless the division provided **written** pre-award authority to begin the project. To be eligible for a pre-award, the project must have met all FTA statutory, procedural and contractual requirements and qualify as a "Category A"¹⁹ project in the federal program of projects. Pre-award authority does not guarantee funding if ODOT fails to receive appropriations, limitations or other expenditure authority sufficient to allow Public Transit Division to execute the grant agreement.
 - 5) The division will reimburse expenditures for a capital project beginning with the start date cited in the grant agreement. Any expenditure by the agency prior to the start date is the

¹⁸ Exceptions are larger facilities projects, which may involve several stages of development and construction, and may take several years to complete. The division may choose to phase the project into more than one biennial grant.

¹⁹ "Category A" is an FTA term which means a project certified by the state as having met all the Federal statutory and administrative requirements for approval applicable to both the project activities and the subrecipient that will carry out those activities. Category A projects are eligible for federal funding.

responsibility of the agency, and will not be reimbursed by the division.

- 6) All agencies with 5310 capital grants are required to submit a project status report with their quarterly reports.



VII. FTA Section 5317: New Freedom Program

The FTA Section 5317 program is a program to support services and facility improvements to address the transportation needs of persons with disabilities that go beyond those required by the Americans with Disabilities Act. The program provides supports capital and operating costs.

The State of Oregon receives an annual apportionment by formula from Congress for the small urban (populations > 50,000 and < 200,000) and rural areas of the state. Public Transit Division uses the biennial Discretionary Grant Program to allocate the 5317 funds to eligible subrecipients.

1. Program Goals and Objectives

The goal of Public Transit Division's Section 5317 program is to improve mobility for individuals with disabilities living throughout Oregon. The funds are available for use by agencies in all areas of the state – urbanized, small urban and rural. Because financial resources are limited, one of the program's goals is to ensure that funds will be invested in projects that represent the highest and best use.

Because Oregon has a strong state-funded Special Transportation Fund Program (STF), Public Transit Division manages the 5317 program to be complementary with the STF and 5310 programs. For example, the STF formula funds may be used for operating services, while the 5310 grants are often used for vehicle purchases to support those services. 5317 would add additional operations support or support for facilities.

2. Eligible Subrecipients

Public, Indian tribes, private for- and non-profit agencies are potentially eligible to receive 5317 funds.

3. Eligible Assistance Categories

The Public Transit Division offers discretionary grants in a variety of categories. The division may identify different priorities in a particular grant cycle, but generally the categories are:

- a. Operations
- b. Capital projects, including vehicles, facilities, computers, etc.
- c. Mobility management, which includes a wide range of activities that result in improved coordination and access to services.

All vehicle requests must meet the requirements of the Americans with Disabilities Act (ADA). Agencies wishing to purchase non-accessible

vehicles must sign a Certification of Equivalency annually assuring the division they have the ability to meet ADA requirements.

4. Project Selection Criteria and Method of Distributing Funds

Public Transit Division maintains a list of all currently eligible federal and state grant recipients. All are notified directly of funds availability and are invited and encouraged to participate in the program. The division uses press releases to further notify the public that discretionary grants are available. Local STF Agencies, designated as coordinating agencies by the division, assist the division in notifying public and nonprofit agencies within their geographic areas about the grant program. Division staff provide technical assistance to agencies, as needed, to help them develop grant applications.

STF Agencies review and prioritize all projects benefiting transportation for elderly and disabled persons. The review includes consideration of applicant eligibility, project type and justification, merit, coordination efforts, public involvement, and environmental justice. STF Agencies may establish other review criteria as well, such as local priorities, project planning, efficiency and effectiveness.

Public Transit Division performs a technical review of all applications. A listing of all projects is presented to the Project Selection Committee for final consideration and approval.

Discretionary grants are awarded biennially. Usually applications are available in the fall of each solicitation cycle. The process of evaluating applications and making final grant awards takes six to eight months. However, the timing of the application and grant awards process depends on federal and state legislation. If necessary, the division may adjust the timing of the grants process. The division publishes a schedule of the discretionary grant process as soon as it is available.

5. Local Share and Local Funding Requirements

The match rate for the 5317 program is 89.73% for capital and mobility management; 50% for operating projects.

State STF formula funds granted to agencies through the designated STF Agency are considered "local funds" and may be used as match for 5317 funds, along with other local resources available to local agencies.

The actual amount of reimbursement for any project is limited to the original project proposal prepared by the project applicant, even if project


costs exceed those estimated. It is the responsibility of the project applicant to “make up” any shortfalls in project funding.

6. Training Requirements for 5317 Subrecipients

The Public Transit Division may periodically provide workshops on such topics as capital procurement, operations or other topics related to management of transportation services. Agencies that receive 5317 funds must attend training in one or more of these areas if requested to do so by the division.

7. Basic 5317 Grant Management Policies

Capital, mobility management and operating projects will be managed in accordance with procedures established for the 5310 and 5311 programs, as appropriate.



VIII. FTA Section 5316: Job Access and Reverse Commute Program

The FTA Section 5316 program is a program to develop and maintain transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment; and for public transportation projects designed to transport residents of urbanized areas and other than urbanized areas to suburban employment opportunities. *Low-income* refers to an individual whose family income is at or below 150% of the poverty line as specified by the Community Services Block Grant Act. In many cases, these individuals are also individuals with disabilities.

The State of Oregon receives an annual apportionment by formula from Congress for the small urban (populations > 50,000 and < 200,000) and rural areas of the state. Public Transit Division uses the biennial Discretionary Grant Program to allocate the 5316 funds to eligible subrecipients.

1. Program Goals and Objectives

The goal of Public Transit Division's Section 5316 program is to improve mobility for economically disadvantaged individuals living throughout Oregon. The funds are available for use by small urban and rural agencies. Because financial resources are limited, one of the program's goals is to ensure that funds will be invested in projects that represent the highest and best use.

Because Oregon has a strong state-funded Special Transportation Fund Program (STF), the 5310 and 5311 programs, Public Transit Division manages the 5316 program to be complementary with these programs. For example, the STF formula funds may be used for operating services, while the 5310 grants are often used for vehicle purchases to support those services. 5316 would add additional operations support or support for facilities or operations.

2. Eligible Subrecipients

Public agencies, Indian tribes, private for- and non-profit agencies providing services in small urban and rural areas of Oregon are potentially eligible to receive 5317 funds.

3. Eligible Assistance Categories

The Public Transit Division offers discretionary grants in a variety of categories. The division may identify different priorities in a particular grant cycle, but generally the categories are:

- a. Operations;
- b. Planning;
- c. Capital projects, including vehicles, facilities, computers, etc.; and
- d. Mobility management, which includes a wide range of activities that result in improved coordination and access to services.

4. Project Selection Criteria and Method of Distributing Funds

Public Transit Division maintains a list of all currently eligible federal and state grant recipients. All are notified directly of funds availability and are invited and encouraged to participate in the program. The division uses press releases to further notify the public that discretionary grants are available. Local STF Agencies, designated as coordinating agencies by the division, assist the division in notifying public and nonprofit agencies within their geographic areas about the grant program. Division staff provide technical assistance to agencies, as needed, to help them develop grant applications.

STF Agencies review and prioritize all projects benefiting transportation for elderly and disabled persons. The review includes consideration of applicant eligibility, project type and justification, merit, coordination efforts, public involvement, and environmental justice. STF Agencies may establish other review criteria as well, such as local priorities, project planning, efficiency and effectiveness.

Public Transit Division performs a technical review of all applications. A listing of all projects is presented to the Project Selection Committee for final consideration and approval.

Discretionary grants are awarded biennially. Usually applications are available in the fall of each solicitation cycle. The process of evaluating applications and making final grant awards takes six to eight months. However, the timing of the application and grant awards process depends on federal and state legislation. If necessary, the division may adjust the timing of the grants process. The division publishes a schedule of the discretionary grant process as soon as it is available.

5. Local Share and Local Funding Requirements

The match rate for the 5316 program is 80% for capital, planning and mobility management; 50% for operating projects.

State STF formula funds granted to agencies through the designated STF Agency are considered "local funds" and may be used as match for 5316 funds, along with other local resources available to local agencies.

The actual amount of reimbursement for any project is limited to the original project proposal prepared by the project applicant, even if project costs exceed those estimated. It is the responsibility of the project applicant to “make up” any shortfalls in project funding.

6. Training Requirements

The Public Transit Division may periodically provide workshops on such topics as capital procurement, operations or other topics related to management of transportation services. Agencies that receive 5316 funds must attend training in one or more of these areas if requested to do so by the division.

7. Basic Grant Management Policies

Capital, planning, mobility management and operating projects will be managed in accordance with procedures established for the 5310 and 5311 programs, as appropriate.

IX. State Rural Transit Assistance Program (RTAP)

The Rural Transit Assistance Program (RTAP) is managed to benefit recipients of both federal and state rural transportation funds. In some circumstances, urban agencies receiving FTA funds may participate if training is relevant to those agencies.

Until 2003, Public Transit Division used an advisory committee representing nonurban and special needs transportation providers to identify training and technical assistance needs and make recommendations on expenditure of RTAP funds. The division currently uses informal input from the Oregon Transit Association, Public Transit Advisory Committee and subrecipients to develop annual training programs.

The largest component of RTAP is a scholarship program. Funding is provided to individuals in transit agencies to attend state, regional and national training. Scholarships generally cover 80 percent of travel expenses and training registration fees.

The division also plans or coordinates approximately four training sessions per year on specialized subjects, such as ADA compliance and Drug and Alcohol programs. Some of the training is conducted in conjunction with FTA.

RTAP funds are also used to develop training programs or packages available for use by all transit agencies, such as the *Safe at Any Age* driver training developed by Ride Connection for the RTAP. Funds are also used to support research activities.

The RTAP program also includes a networking meeting fund, a resource library, and on-site technical assistance as requested.

When ODOT-Public Transit Division contracts with agencies to develop training programs, there is no match requirement.



X. Locally Developed Coordinated Public Transportation Human Service Plan

Beginning in FY 2007, as a condition of Federal assistance and as result of SAFETEA-LU, Public Transit Division must certify to the Secretary of Transportation that projects selected for funding in Sections 5310, 5316 and 5317 derive from locally developed coordinated plans. Section 5311 participants' projects are expected to be included in the local planning process. Intercity bus providers are encouraged to be included. Also in 2007, STF Agencies must complete a plan for their STF programs. These two planning requirements are very similar in intent and timing.

- 1. Unified Plan.** To avoid redundancy, the division will require a single, unified coordinated plan to include both the state and federal requirements.
- 2. Local Lead Agency. The STF Agency is designated as the lead agency to develop and adopt the coordinated plan for its area.** STF Agencies have been the division's partners to coordinate transportation for elderly individuals and individuals with disabilities for the Special Transportation Fund Program and are now required by state law to adopt a plan by June 30, 2007. The FTA allows the state to designate lead agencies for the federal programs. STF Agencies may designate another agency to conduct planning process.
- 3. Planning Area.** The planning area will be (at a minimum) the county or counties governed by STF Agencies, or the areas served by Indian tribes. STF Agencies will be asked to coordinate their planning with the Metropolitan Planning Areas (MPOs) and transit agencies in the MPO areas, as appropriate.
 - a. Plans may be divided into urban and rural components.
 - b. Regional Plans are encouraged: STF Agencies and MPOs may join with other STF Agencies (and other agencies with similar planning requirements) for mutual benefit for planning purposes
- 4. MPO Coordination:** In urban areas the MPO organizations will be consulted and collaborate with the lead agency. Transit Staff is working with each urban area to identify issues and solutions around developing the plan. Coordination with MPO Planning requirements and STF Program planning requirements is emphasized, but we recognize that it will require additional consultation and coordination.
- 5. Plan Development and Approval:** To meet the requirement for certifying that projects emerge from plans, Public Transit Division is proposing a phase-in planning process.
 - a. In order to identify projects for the 2007-2009 Public Transportation Discretionary Grant Program, coordinated plans will need to be well underway by the Fall of 2006. These interim plans are required in order for local communities to identify projects to propose for discretionary grant funds, and for Public Transit Division to acknowledge that projects

are derived from a plan, as required. For communities with transportation plans, the initial planning effort will allow the community to update their plan to be in compliance with the new requirement. For communities without a plan, the initial plan will allow the community to enter into a dialogue about transportation and to identify initial community coordination goals.

- b. The coordinated plan must be adopted by June 30, 2007.

Plan Content:

Plan content will include traditional elements for a plan:

Below are the four major content areas required to meet the public transit-human service transportation planning requirements. The division expects the planning process to be inclusive and to result in services that take advantage of coordination of resources and services funded with FTA, state and local resources and with human service funds.

1. Stakeholder Involvement

Engaging the appropriate organizations and individuals in planning efforts is critical to identifying the needs of the target population, the needs of the community/region, the transportation services available, and the identification of new solutions.

2. Data and Analysis

Collect and analyze the data, including demographic, economic, aging, etc. to determine trends and future needs. Analyze existing conditions, including human services, public transportation and potential riders in the planning area.

3. Identify Unmet Transportation Needs

Identify the various types of transportation challenges and "gaps" in existing transportation services. Compare the origins and destinations of people with special needs with the existing transportation services. Identify the unmet needs and possible wasteful duplication of efforts in certain areas. Ask human service organizations and consumers about their perceptions of service gaps and needs.

4. Develop Transportation Alternatives

Prioritizing needs, along with identifying potential solutions is sufficient in this plan. It is not required to design transit: transit design can be a very technical and specialized activity. Transportation solutions will vary in each area depending on the resources available, the size of the market for each alternative and the extent of existing services.

Additional Considerations: The planning initiative will be coordinated with the division's United We Ride activities and the Statewide Planning Program (§5313). Funds and technical assistance will be made available to assist in developing the plans, starting with the United We Ride coordination grant allocated to ODOT in 2005. The division is working with an interagency United

We Ride Working Group to identify recommendations for plan development strategies and technical assistance.

XI. State Management Procedures

1. Statewide Transportation Improvement Program

The Statewide Transportation Improvement Program (STIP) is a four-year document that identifies highway, bridge, transit and other projects committed for federal funding by ODOT. Projects funded with FTA Sections 5310, 5311, Surface Transportation Program funds and Transportation Options projects are in the STIP.

ODOT's Highway Finance Office determines STIP timelines and processes, and Public Transit Division manages its federal grant programs in conjunction with ODOT's biennial update of the STIP. The division maintains a list of specific transit projects that are funded through the STIP.

The Discretionary Grant Program is used to identify Metropolitan Planning Organization (MPO)-area projects eligible to be funded with Section 5310 funds. The identified projects are coordinated with local MPOs. Metropolitan Planning Organization staff work closely to ensure that projects identified in the local TIPs are consistent with the STIP.

2. Annual Program of Projects Development and Approval Process

Public Transit Division solicits applications for 5311 funds each fiscal year, usually in the March – June quarter. Discretionary grant applications for 5310 funds are available on a biennial basis with the process usually beginning in the fall of each even year.

The Public Transit Division prepares and submits Oregon's applications for Sections 5310 and 5311 funds to the Federal Transit Administration (FTA). The applications are submitted in summer, with the goal of having approved federal grants by September 30 of each year. The Program of Projects (PoP) is a statement of intent to make grants. Projects are included in the STIP, as required by the FTA.

The division manages transfers of FTA Section 5307 (urban-area mass transit account block grants) to Section 5311 for a single project annually: the Longview/Kelso/Rainier MPO which is a bi-state MPO.

Public Transit Division transfers Surface Transportation Program (STP) funds and other "flexible funds" to Section 5310 and 5311 on a case-by-case basis. The funds may be included in the original federal application for each year, or may be added to the grant later through a grant amendment, as allowed by FTA.

3. State Administration and Technical Assistance

Public Transit Division works with other divisions of ODOT and grant recipients to administer transit projects. Fifteen percent of the annual appropriation of Section 5311 (including STP transfers) and ten percent (or \$25,000, whichever is greater) of the Section 5310 appropriation are allocated to state administration and technical assistance.

The OMB Circular A-87 identifies allowable state administrative costs for the 5310 and 5311 programs. A portion of the 5311 administrative allocation can be granted to local providers for eligible planning projects identified through the Discretionary Grant Program, although in recent years many planning projects have been funded with STP transfer funds. The funding of planning projects must be accommodated within the 15% limitation for administration. The Rural Transit Assistance Program is not included in the state administrative program; it has its own allocation of funding, determined annually by Congress.

The primary administrative duties of Public Transit Division for the FTA's Section 5310 and 5311 programs include:

- a. Provide technical assistance to applicants and grantees.
- b. Announce program availability, selection criteria and eligibility requirements.
- c. Coordinate reviews of project financing with the Project Selection Committee, PTAC, or the OTC, as appropriate.
- d. Match applicants' project proposals to the available funding.
- e. Prepare and maintain the State Management Plan for Section 5310 and Section 5311.
- f. Coordinate the transit element of the Statewide Transportation Improvement Program; coordinate Metropolitan Planning Organization TIPs with the STIP.
- g. Monitor local projects for compliance with federal and state rules; report to FTA and ODOT director as necessary.
- h. Monitor grantees' management of equipment and facilities purchased with grant funds.
- i. Develop vehicle and equipment specifications.
- j. Review project plans and specifications.
- k. Review requests for waiver of Buy America requirements.
- l. Review requests to award a bid when only one bid is received.
- m. Review third-party contracting processes.
- n. Gather information for environmental regulations.
- o. Review Charter Bus petitions and certifications.

p. Review quarterly reports and processes grant payments.

Public Transit Division provides technical assistance to subrecipients receiving FTA 5311 and 5310 funds, such as assistance with project planning and development, project management and improvement, and compliance with federal requirements. The division also provides assistance to enable grantees to apply for other federal funds including FTA's Section 5309 and Job Access and Reverse Commute grants.

Technical assistance to grantees and subrecipients is provided primarily by division staff and consultants.

4. Financial Management

Public Transit Division manages the state and federal funds allocated to it as required by laws, rules and ODOT policies governing the expending and accounting of federal and state funds.

ODOT's financial management system has an internal control structure that permits the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions applicable to Section 5310 and 5311, and state funds.

ODOT requests federal funds payment through the Electronic Clearing House Operation (ECHO) system. The department follows the Department of Treasury regulations 31 CFR Part 205 and FTA Guidelines for Disbursements. ECHO drawn-downs are completed regularly, when the division initiates payment requests to ODOT's Financial Management Division.

Public Transit Division submits annual Financial Status Reports on all open grants as required by FTA. Closure of the federal Program of Projects occurs as soon as work activities for the programs are completed and after all federal funds are expended.

The division reviews grantees' quarterly revenues and expenditures, verifies funds used for match, and makes payments to grantees on a reimbursement basis. It reviews grantees' financial procedures during on-site visits, and recommends corrective action if necessary.

Public Transit Division's financial records are supported by appropriate documentation. Records pertinent to grants are retained by the division for a period of three years. The retention period starts on the date of the final federal Financial Status Report. If any

litigation, claim or audit starts before the expiration of the three year period, the division extends the retention period until all litigation, claim or audit findings have been resolved. All records are readily available to authorized representatives of the State of Oregon, the U.S. Department of Transportation, the Federal Transit Administration, and the Comptroller General of the United States.

Subrecipients must also keep grant records for three years after a project is completed, or a vehicle title is released to the subrecipient.

5. Audit and Financial Review Requirements

Public Transit Division reviews the annual audits of subrecipients to ensure that federal and state transit funds are reported in the audits. The division also reviews the management letter accompanying an audit to determine if there are material findings that need to be addressed before grant agreements are executed with the subrecipient.

Subrecipients receiving Federal funds in excess of \$500,000 are subject to audit conducted in accordance with Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments, And Non-profit Institutions*. Subrecipients affected by this requirement must submit to Public Transit Division a copy of its A-133 annual audit covering the federal funds expended under current grant agreements with ODOT. If a subrecipient has a subcontractor responsible for the financial management of federal funds, the subrecipient shall arrange for the division to be sent a copy of the subcontractor's annual audit.

Recipients receiving less than \$500,000 in Federal funds must submit to Public Transit Division a copy of any annual audit covering the funds expended under current grant agreements with ODOT; and the annual audit of any subcontractor receiving federal funds as a result of grant agreements.

All subrecipients must include a copy of the management letter and any other reports that accompany the annual audit.

6. Project Monitoring/Project Compliance

Public Transit Division, as the administrative agent for state and federal funds, is required to ensure subrecipients comply with federal and state requirements. This is accomplished through a project monitoring program performed by division staff or its delegates. Monitoring specifically evaluates the grantee's managerial and

financial capacity, ongoing grant eligibility and ability to comply with state and federal requirements that are a condition of funding.

When a monitoring activity identifies a potential issue related to capacity, eligibility or compliance, division staff works with the grantee to determine whether the condition exists and, if so, determines a plan of corrective action and technical assistance.

Public Transit Division has a three-step monitoring program that begins at the application stage, including internal reviews, and on-site program reviews.

Application Stage:

The division's monitoring program starts at the application stage to ensure that applicants are eligible to receive state or federal funds.

- a. Pre-award compliance questionnaires are required for all new agencies receiving federal funds and required periodically for already established subrecipients. The questionnaire assesses the level of compliance with FTA requirements.
- b. Any compliance issues that emerge from the questionnaires must be resolved by the agency before the division finalizes grant agreements for any federally funded projects.
- c. Annual applications for FTA Section 5311 are reviewed to ensure agency eligibility, project eligibility, financial capability, and verification of local match.
- d. Applications for the Discretionary Grant Program are reviewed for agency eligibility, project eligibility, and compliance with application requirements and processes required by the division.
- e. Public Transit Division does not finalize grant agreements for any federally funded projects until compliance issues have been resolved by the grantee.

Internal Reviews:

Public Transit Division regularly does internal reviews of various documents to monitor subrecipients' compliance. These include, but are not limited to, reviews of:

- a. Quarterly financial reports for problems or anomalies that may indicate financial problems;
- b. Local agencies' annual audits and management letters, if required, to determine if there were any material findings during the audit period;
- c. Drug and alcohol policies submitted by subrecipients for review;
- d. ADA documents submitted to by subrecipients for review;

- e. Public information brochures and route schedules (for ADA compliance);
- f. Informal complaints received by the division regarding service provided by a subrecipient and action taken by the subrecipient.

On-site Program Reviews:

Public Transit Division performs on-site program reviews of FTA Section 5311 and 5310 grantees. In choosing agencies to review, the division performs a risk management assessment, which consists of type and size of agency, numbers of outstanding grants, size of grants, the division's historic relationship with the provider, and evidence of ongoing compliance problems.

Public Transit Division has a two-tier oversight process. In Tier One, on-site reviews are performed on a rotating schedule, based on an evaluation of risk. The goal is to review agencies approximately every three years; however, the division may elect to perform reviews every five years for agencies with no substantive compliance issues from the last on-site review. The division may also elect to perform internal reviews instead of on-site reviews for very small 5310 agencies having only one grant. ²⁰

In Tier Two, the division may require agencies to complete an Annual Assessment of Compliance Areas. This assessment is in addition to program-specific pre-award questionnaires the grantee may be required to submit.

Agencies Receiving Triennial Reviews from FTA:

Public Transit Division does not perform on-site reviews of any FTA Section 5311 agency that receives a triennial review from FTA due to the receipt of Section 5309 funds; nor does it perform an on-site review of any Section 5307 agency that also may receive Section 5310 funds. The division may evaluate the triennial reviews for any substantive findings.

Construction of Facilities:

Most construction or facilities projects funded by Public Transit Division are small projects and usually approved for categorical exclusions of environmental requirements by FTA. The division visits the completed facility, or requires photographs of the completed project, or both, prior to making final payment on a grant. This is to

²⁰ See Appendix D for more information regarding the on-site review process and a copy of the review document used by PTD.

ensure the project was completed as described in the grant agreement, and that basic ADA requirements (parking, signing, curb cuts etc.) have been met.

7. State Reporting Requirements

Public Transit Division requires performance and fiscal reports from grantees for each of its funding programs. Grant payment is based on receipt and approval of the reports and reimbursement requests. Reports document number of rides, hours, miles, senior and disabled passenger counts, quarterly revenues and expenditures, match, source of match and other data as required by the specific funding source.

If any inconsistencies or problem areas are evident in the reports, those are resolved with the agency involved before grant reimbursement is made. Depending upon the type of grant, the division may require other types of documentation in order to process reimbursement requests.

Public Transit Division reserves the right to de-obligate funds before the end of a project for cause. In some cases, repayment of grant funds will be pursued and debarment from future grant opportunities will occur.

8. Public Involvement and Coordination

Public Involvement

ODOT requires all agencies applying for capital projects in both the 5311 and 5310 programs to provide an opportunity for public input and comment. This is to ensure that interested parties, including potential private operators, have an opportunity to be heard. The designated STF Agencies, which coordinate local grant applications and prioritization for the Discretionary Grants Program, are required to follow specific public involvement procedures.²¹

Service Coordination

The State of Oregon's Coordination Policy states that all recipients of Federal Transit Administration grants will coordinate and cooperate with other programs operating or planning to establish transportation systems in their service areas.

²¹ See Appendix G for Discretionary Grant Program—Instructions for STF Agencies.

On the state level, Public Transit Division coordinates the program service and funding objectives through the PTAC, the Oregon Department of Human Services, and the Legislative Commission on Indian Affairs.

This coordination effort is continued at the local project level. Applicants for FTA transportation grant programs must coordinate their proposed service plans with other local agencies in order to reduce expenditures, improve or increase service, and use resources more efficiently. This is accomplished through their respective advisory committees in non-urbanized areas and Metropolitan Planning Organizations (MPOs) in urbanized areas of Oregon. This coordination effort is examined during the Section 5310 and Section 5311 application review process.

In addition to advisory committees and MPO coordination, state transportation program requirements call for local agencies to provide reasonable notice to transportation providers (including private for-profit, private nonprofit, and public agencies) regarding proposed changes in transit services. Private transportation providers are encouraged to participate in order that they may present their views concerning the development of local plans and programs.

With respect to FTA Sections 5303/5313, the ODOT Transportation Planning Division (Urban Planning and Transit Sections) in its role as coordinator with the non-urbanized areas and MPOs, develops a single State grant application and work program each year.

Private Sector Participation

It is the policy of Public Transit Division to provide the opportunity for private enterprise to participate in the planning process and delivery of public transit services. This is accomplished through the involvement of private businesses on the PTAC as well as private sector participation in local planning processes and program development.²²

a. Large Communities With Formalized Planning Process

Metropolitan Planning Organizations (MPOs) encourage private enterprise participation in the earliest possible stages of the planning process in order to coordinate public and private transit services. The MPO planning procedures provide opportunities for

²² See Appendices for more detailed information regarding the private sector participation process in local planning and program development.

private transportation providers to be notified of, or be involved in, meetings of the local advisory committees, policy coordinating committees, and the update of the local TIPs.

b. Small Communities and Rural Areas

In small urban areas, communities or rural areas, transit agencies often provide the opportunity for using the capabilities and resources of the private sector to meet the demand for transportation service. Subrecipients are encouraged to consider private companies when designing their transportation services, and several Section 5311 subrecipients use private entities to operate their services through third-party contracts.

In the FTA Section 5310 program, many private nonprofit agencies receive funding, either directly from Public Transit Division or through a third-party contract with a public agency.

c. State Role

The Public Transit Division defines procedures to help local agencies comply with public notice requirements so that the private sector has the opportunity to comment on grant proposals or bid on contracts for transit service. The division requires grantees to comply with Oregon's Open Meetings law and public notice requirements in its grant programs. Technical assistance is provided, upon request, by the division to local agencies in the development of their private sector participation process.

9. Grievance or Protest Procedures

Public Transit Division encourages all local transportation providers to have grievance procedures in place for resolving local disputes.


The division conducts an appeals process to resolve protests of funding or other decisions made by the Oregon Department of Transportation.

Within 30 days of notification of a funding or other decision the affected agency may file an appeal of the decision.

- a) The agency will address the appeal to the administrator of the division.
- b) The appeal will identify the project or proposed project affected by a funding decision; or, will identify the action taken by the division

that is being appealed. The appeal will include the recipient or proposed recipient affected by the decision, any arguments pertaining to the appeal, and the requested remedy.

The division will investigate the appeal and will make a written statement of finding within 30 days.



XII. Subrecipient Grant Requirements

For the purpose of compliance with state and federal regulations and requirements, the term “project” includes all activities and funding described by the applicant in the project application and defined in the subsequent grant agreement.

Project funds are not limited to the grant and associated match, but include all funds supplied by the grant recipient as necessary to operate the specific project described in the grant agreement. Agencies receiving multiple funding sources must manage their projects to conform to the most stringent of applicable state or federal rules, or they must develop financial strategies to segregate funding streams associated with specific projects.

1. Title VI - Civil Rights

Reference: FTA C 9040.1.E; FTA C 9070.1.E

ODOT complies with Title VI of the Civil Rights Act of 1964, as amended. The policy applies to both state and local grant recipients and states that, “No person in the United States, 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.”

Civil Rights assurances extend to the grantee's entire facility and services operated in connection with the project. Grantees are required to report to Public Transit Division any complaints of discrimination in the provision of transportation-related services or benefits. Formal complaints may be filed with USDOT or FTA.

Responsibilities of subrecipients:

- a. Sign a certification of compliance pertaining to Civil Rights.
- b. Contact the division immediately via phone, email or fax if the subrecipient has received a lawsuit or civil rights complaint.
- c. Report to the division, either through the compliance questionnaire or the annual application, a concise description of active lawsuits or complaints alleging discrimination in service delivery in the past three years. The report must disclose the status or outcome of lawsuits or complaints, and summarize all civil rights compliance review activities conducted during the three-year period.
- d. Provide updates on the status or outcome of active or pending lawsuits on quarterly reports.

Public Transit Division monitors compliance by:

- a. Obtaining a signed certification of compliance from all grantees each year;
- b. Including non-discrimination clauses in all state-local grant agreements;
- c. Maintaining a list of all Section 5310 funding applications and ensuring those projects serving minority populations have equal opportunity for funding;
- d. Ensuring that the division's project evaluation and selection processes are non-discriminatory;
- e. Reviewing all informal complaints received by the division that may be a "civil rights" issue and providing technical assistance to agencies or individuals;
- f. Referring information on active lawsuits or complaints to the ODOT Office of Civil Rights;
- g. Reviewing Civil Rights compliance during on-site program reviews.

2. Environmental Justice

Environmental justice is not a new requirement. Agencies receiving federal grant funds have been required to ensure nondiscrimination under Title VI of the Civil Rights and other related laws.

However, environmental justice specifically addresses minority and low income populations:

A 1994 Presidential Executive Order directed every Federal agency to make environmental justice part of its mission by identifying and addressing the effects of all programs, policies, and activities on “minority populations and low-income populations.”

Transit providers offer mobility for all citizens whether they own a vehicle or not. They provide an essential service for many low-income and minority populations who have no other way to get to work, shopping, child care, medical appointments, recreation or other destinations. Transit agencies support Title VI and environmental justice when they:

- a. Ensure that new investments and changes in transit facilities, services, maintenance and vehicle replacement deliver equitable levels of service and benefits to minority and low-income populations;
- b. Avoid, minimize or mitigate disproportionately high and adverse effects on minority and low-income populations;
- c. Enhance public involvement activities to identify and address the needs of minority and low-income populations in making transportation decisions.”²³

One of Public Transit Division’s goals is to help subrecipients consider environmental justice principles in their services. The division will help agencies look at demographics to identify unmet needs. When subrecipients engage in planning related to development of transit services and capital purchases, they are expected to include consideration of “environmental justice.”

In developing applications for discretionary grant funds, applicants must demonstrate they have provided an opportunity for public involvement in the identification of potential projects, and are required to comply with the state’s Open Meetings Law when holding meetings.

Each year applicants for 5311 funds are asked to identify the minority populations served in their transit programs. Some agencies with

²³ Source: *An Overview of Transportation and Environmental Justice*, U.S. Department of Transportation, Federal Highway Administration and Federal Transit Administration.

significant minority communities are providing bilingual transit information to encourage use of the transit system by those populations.

Public Transit Division notifies all Tribal Governments of grant opportunities as they arise. Division staff attends tribal meetings upon invitation and provides technical assistance as necessary with grant application and project development. Several Tribal Governments receive funding from the 5311 and 5310 grant programs.

Responsibilities of Subrecipients:

- a. Consider transportation needs of minority and low-income populations, as well as others, in all planning processes, including mobility issues, access to jobs and services, level of service and service equity.
- b. Make public involvement an integral part of decision making so that all populations within a community have an opportunity to be heard and policy makers understand community needs, perceptions and goals.
- c. Look for opportunities to apply for discretionary grants from Public Transit Division that help meet environmental justice goals.

Responsibilities of Public Transit Division:

- a. Provide technical assistance to help grantees with outreach to minority and low income populations; identify networking opportunities regarding travel training, “bus buddies” and similar programs.
- b. Identify the transit needs of low-income and minority populations through statewide planning processes and target funding accordingly.
- c. Ensure that ODOT uses appropriate public involvement processes in awarding grant funds for transit projects.

3. Disadvantaged Business Enterprise Program

Reference: 49 CFR, Parts 23 and 26

As a recipient of FTA funds, ODOT is required to implement a program that provides the maximum opportunity for Disadvantaged Business Enterprises (DBEs) to compete for contracts financed by Federal funds. ODOT's Office of Civil Rights manages this requirement on behalf of ODOT. The DBE program affects all of ODOT's federally funded projects. It is the policy and intent of ODOT to practice nondiscrimination and to create a level playing field on which DBEs can compete fairly for contracts.

The objectives of the DBE Program are:

- a. To ensure that provisions of the DBE Program are adhered to by ODOT and Public Transit Division, FTA grant recipients, subrecipients and contractors; and
- b. To initiate and maintain efforts to increase DBE Program participation by disadvantaged businesses.

Responsibilities of subrecipients:

Subrecipients who receive planning, capital or operating assistance and who anticipate that they will award prime contracts cumulatively exceeding \$250,000 during a Federal fiscal year are required to have in place a DBE program. Contracts to purchase transit vehicles do not count toward the \$250,000 prime contract amount.

- a. Establish a DBE program and goal and submit the documentation to Public Transit Division for review by the division and FTA.
- b. In lieu of a DBE program, a subrecipient may develop a contract-specific DBE goal if the subrecipient usually does not receive FTA funds exceeding the amounts listed above.
- c. Subrecipients do not have to submit regular updates of their DBE programs as long as they remain in compliance. However, subrecipients must submit significant changes in their DBE programs for approval.
- d. Direct recipients of FTA funds report to FTA; all others report quarterly to the division.

Subrecipients receiving less than \$250,000 in FTA funds:

- a. Make a good faith effort to use DBE businesses in procurement;
- b. Report quarterly to PTD on any purchases made from DBE businesses.

Public Transit Division monitors compliance by:

- a. Including DBE requirements in all grant agreements;
- b. Assisting subrecipients in obtaining information on DBE businesses in their geographic areas;
- c. Ensuring all subrecipients receiving FTA funds exceeding the amounts above have the required DBE program and goal prior to executing grant agreements.

4. Equal Employment Opportunity

Reference: FTA C 9040.1.E; FTA C 970.1.E; FTA C 4704.1

ODOT is responsible both for its own compliance (managed by the Office of Civil Rights) and for ensuring that local recipients are in compliance with the Equal Employment Opportunity Act (EEO). The threshold for compliance is receipt in the previous fiscal year of \$1 million or more in FTA assistance, and 50 or more mass transit-related employees. ODOT has an EEO plan covering state employees. In addition, PTD may require documentation from any grantee as it deems necessary to ensure that they do not discriminate on the basis of race, color, creed, national origin, sex, age or disability.

Responsibilities of subrecipients:

- a. Post EEO information in a place readily accessible by employees; and
- b. Include an EEO statement in all job advertisements.

Public Transit Division monitors compliance by:

- a. Reviewing EEO practices by subrecipients during the on-site reviews.

5. Section 504 and Americans with Disabilities Act

Reference: 49 CFR Parts 27, 37, and 38

Section 504 of the Rehabilitation Act of 1973 preceded the Americans with Disabilities Act (ADA). Section 504 prohibits discrimination on the basis of handicap by recipients of federal financial assistance. USDOT's Section 504 regulations remain in effect. The USDOT issued regulations to implement the ADA effective January 26, 1992.

The ADA affects both public and private entities, whether or not they receive federal or state financial assistance. The ADA requires nondiscrimination and accommodations for disabled people in employment, public accommodations, state and local government services, transportation and communications.

Further, ADA applies to both general public fixed-route transportation systems and specialized demand-responsive systems. ADA requires the purchase of accessible buses, operation of paratransit service as a complement to fixed-route systems, adherence to ADA service provisions for fixed route and demand response systems, and planning. Public Transit Division does not release grant funding until agencies are in compliance with the ADA law.

Responsibilities of subrecipients:

- a. Sign certifications of compliance pertaining to ADA requirements;
- b. Establish service policies and procedures in accordance with the ADA;
- c. Establish a complementary paratransit program for publicly operated fixed route systems;
- d. Comply with ADA service provisions (fixed route and demand-response);
- e. Purchase vehicles in compliance with ADA requirements, or sign a Certification of Equivalent Service annually;
- f. Include appropriate ADA information in all public information brochures and route schedules;
- g. Inform Public Transit Division of any ADA complaints.

Public Transit Division monitors compliance by:

- a. Obtaining certifications of compliance from all subrecipients;
- b. Including ADA requirements in all state-local grant agreements;
- c. Monitoring vehicle purchases for accessibility and obtaining Certificates of Equivalent Service, if applicable;
- d. Reviewing the ADA component of the compliance questionnaire;
- e. Reviewing subrecipient ADA policies and procedures and other supporting documentation, and following up with the agency regarding compliance issues, if needed;

- f. Reviewing ADA compliance during on-site program reviews; and
- g. Providing technical assistance on ADA complaints and forwarding information to FTA if warranted.

6. Charter Bus Protections

Reference: 49 CFR Part 604 (Does not apply to FTA Section 5310)

FTA Section 5311 subrecipients are prohibited from using federally funded equipment or facilities to provide charter service²⁴ except on an incidental basis and then only when one or more of the seven exceptions set forth in the charter service regulation in 49 CFR Section 604.9(b) apply.

If either FTA Section 5311 or Section 5310 recipients decide to perform charter service, the agency must comply with federal and state motor carrier regulations pertaining to chartering, as well as FTA regulations regarding charter service.

Responsibilities of Subrecipients:

- a. Sign a certification of compliance pertaining to Charter Services;
- b. Read 49 CFR if an agency is, or may be, engaging in incidental charter service;
- c. Determine if there are ready and willing private transportation companies able to provide the service;
- d. Apply for one of the charter service exemptions;
- e. Contact Public Transit Division staff for technical assistance.

Public Transit Division monitors compliance by:

- a. Obtaining certifications of compliance from all subrecipients;
- b. Performing desk reviews of the compliance grant questionnaire or annual application;
- c. Conducting on-site program reviews of charter bus compliance;
- d. Evaluating revenues reported on quarterly reports and follow-up by division staff as needed;
- e. Providing technical assistance to subrecipients as needed on the regulations;
- f. Reviewing any complaints received by the division regarding charter service and following up with the appropriate subrecipient to ensure compliance with the requirements.

²⁴ As defined by the Federal Transit Administration, "charter service" means transportation using buses or vans, or facilities funded with FTA grants provided to a group of persons who travel together under an itinerary either specified in advanced or modified after having left the place of origin. The travel group has a common purpose, the travel is under a single contract at a fixed charge for the vehicle or service, and the group has acquired exclusive use of the vehicle or service. This definition includes the incidental use of FTA funded equipment for the exclusive transportation of school students, personnel and equipment.

7. School Bus Regulations

Reference: 49 CFR Part 605; 49 USC 5323 (f)

The 5311 and 5310 subrecipients are prohibited from providing exclusive school bus service unless the service qualifies and is approved by the FTA Administrator under an allowable exemption. In no case can federally-funded equipment or facilities be used to provide exclusive school bus service. Head Start transportation is considered human service transportation and not school bus service.

Subrecipients may carry children to school as part of a public transportation program, including services provided before and after school, if provided as part of regularly scheduled service open to the general public and when the service is identified in the published schedule. Such services are commonly called "Tripper Service."

Public Transit Division does not allow subscription programs for carrying school children on general public systems, if by doing so the general public is excluded.

Responsibilities of subrecipients:

- a. Sign a certification of compliance pertaining to School Bus regulations.
- b. Report on any tripper services provided in the annual application and the compliance questionnaire.
- c. Redesign service if needed to meet the definition of "tripper service."
- d. Read the School Bus regulations if subrecipients are exploring opportunities to share vehicles and resources in their local communities.

Public Transit Division monitors compliance by:

- a. Obtaining certifications of compliance from all subrecipients;
- b. Reviewing applications for funding;
- c. Reviewing the compliance questionnaire pertaining to School Bus regulations;
- d. Performing on-site program reviews to assess compliance;
- e. Providing technical assistance as needed to subrecipients.

8. Safety Authority

FTA has authority to withhold financial assistance from any grantee failing to correct any condition which FTA believes “creates a serious hazard of death or injury.” FTA’s authority to investigate is permissive, not mandatory. Public Transit Division, under its own authority, may withhold funding from grantees that fail to correct any condition which the division believes creates a serious hazard of death or injury.

Certain transit providers may be affected by Federal Motor Carrier Safety Regulations and State Motor Carrier Regulations. These agencies give permission to the Oregon State Police and Division of Driver and Motor Vehicle Services personnel to investigate alleged safety violations. In addition, insurance requirements, equipment and operational practices, and the operating characteristics of individual grant recipients may require further compliance to Federal Motor Carrier Safety Regulations and Oregon Motor Vehicle Safety Regulations.

Public Transit Division expects equipment to be adequately maintained and operated in a safe manner. The following types of accidents must be reported to the Division:

- a. Within one day—any accident resulting in a fatality. Follow-up documentation must be provided within three business days.
- b. Within 10 days:
 - 1) All accidents in which a vehicle is totaled or taken out of service;
 - 2) All accidents that require drug and alcohol testing of the driver according to USDOT requirements;
 - 3) All accidents that require the grantee to file a report with the Division of Motor Vehicles.

Responsibilities of subrecipients:

- a. Establish agency safety programs and provide regular safety training for employees;
- b. Determine and conform to the appropriate safety regulations;
- c. Report to Public Transit Division all accidents based on the guidelines above. Failure of an agency to comply will result in implementation of a compliance process and could result in the division suspending funding.

Public Transit Division monitors compliance by:

- a. Doing visual inspections of vehicles during on-site program reviews;
- b. Reviewing safety practices and programs during on-site reviews;
- c. Following up with subrecipients on all reported accidents to ensure appropriate documentation on the incident was obtained and drug and alcohol testing (if appropriate) was performed; determining appropriate action if FTA requirements were not followed.

9. Drug-Free Workplace / Drug and Alcohol Testing Regulations

The Drug-Free Workplace Act and the FTA Drug and Alcohol Testing Regulations are related, but they are not the same program and they affect subrecipients differently:

Drug-Free Workplace -- Reference: 49 CFR Part 32

The Drug-Free Workplace Act is part of the federal government's effort to eliminate illegal drugs from the workplace. The Drug-Free Workplace Policy is a "first-tier" requirement applying to ODOT only and does not apply to subrecipients of either FTA Sections 5310 or 5311. The Oregon Department of Transportation has adopted an agency-wide Drug Free Workplace Policy.

Some local transit operators may have a drug-free workplace requirement, but this is established under the agency's own authority and is not part of an ODOT grant agreement requirement.

Drug and Alcohol Testing -- Reference: 49 CFR Part 655; 49 CFR Part 40 (Excludes FTA Section 5310)

"Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655, revised by the Federal Transit Administration August, 2002, implement the omnibus USDOT drug and alcohol testing act. This part and 49 CFR Part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" describe policy development and testing procedures required of any agency in receipt of FTA funds, excluding FTA Section 5310. Grantees affected are those receiving FTA Section 5311 funds.

Public Transit Division also requires conformance to the Drug and Alcohol program requirements for grants financed with Job Access Reverse Commute (JARC/also Section 3037). This requirement applies to all subrecipients and their contractors with safety sensitive employees, with the exception of maintenance contractors, at all tiers.

Unless otherwise notified by Public Transit Division, all 5311 subrecipients are expected to establish and manage an ongoing Drug and Alcohol testing program in compliance with the regulations. They must submit a current drug and alcohol policy and any changes or updates to the policy. They must also submit Management Information System (MIS) forms annually to PTD and may also be required to submit MIS forms to FTA.

Subrecipient responsibilities:

- a. Develop an anti-drug use and alcohol abuse policy statement and program in accordance with FTA regulations, or require contractors to develop program;
- b. Ensure that subcontracts include the Drug and Alcohol program as appropriate to the purpose of the work;
- c. Sign a certification of compliance to drug and alcohol programs and testing for year of funding;
- d. Send policy to Public Transit Division for review and approval each time it is updated;
- e. Submit MIS forms for the previous year (January 1 to December 31) to the division by March 1 of each year.

Public Transit Division monitors compliance by:

- a. Obtaining annual certifications of compliance from all subrecipients;
- b. Including Drug and Alcohol program and testing requirements in all state-local 5311 grant agreements;
- c. Obtaining and reviewing subrecipients' drug and alcohol policies;
- d. Maintaining file of current policies;
- e. Conducting on-site program reviews;
- f. Providing regular drug and alcohol training for grantees;
- g. Ensuring subrecipients submit annual MIS reporting data as required.

10. FHWA Drug and Alcohol Testing/Commercial Drivers License

Reference: 49 CFR Part 382

Some FTA Section 5310 grant recipients may be effected by drug and alcohol prevention policy development and testing under Federal Motor Carrier Safety Regulations, 49 CFR Part 382, "Controlled Substance and Alcohol Use Testing." This requirement is triggered if subrecipients purchase or operate vehicles with a capacity of 16 passengers or more (including the driver). Operators of these vehicles also require a driver with a Commercial Drivers License (CDL).

Responsibility of subrecipients:

- a. Ensure that operators of all vehicles with capacity of 16 or more persons including the driver have the required Commercial Drivers Licenses (CDL), according to Federal Motor Carrier Safety Regulations. (The requirement for CDL is not limited to the operator -- any individual who drives the vehicle for any reason has to hold a CDL).
- b. Ensure that individuals with CDLs are subject to Drug and Alcohol testing under the FHWA, if not tested under FTA regulations.

Public Transit Division monitors compliance by:

- a. Reviewing the compliance questionnaire pertaining to drug and alcohol testing;
- b. Reviewing compliance during on-site program reviews.

11. Labor Protection

Reference: Special Section 13 (c) Warranty, Section 18 of the Urban Mass Transportation Act of 1964, as amended.

Section 5333(b) of the Federal Transit Act requires that as a condition of funding, fair and equitable arrangements must be made to protect the interests of employees affected by grant assistance. The Department of Labor (DOL) and the FTA agreed upon a special warranty that applies only to Section 5311 funded projects. However, in some instances Section 5310-funded projects may be affected and Public Transit Division makes a determination on a case by case basis.

The special warranty substitutes for certification by the DOL of individually negotiated agreements for each project. Each local recipient of Section 5311 must agree in writing to the special warranty. The warranty is a one-time certification and the signed certifications are kept in the division's compliance files on each subrecipient. All new 5311 subrecipients sign the warranty prior to execution of the grant agreement.

Responsibilities of subrecipients:

- a. Read and sign the Section 5333 (b) Warranty (one-time certification).
- b. Post the applicable portion of the Special Warranty in a location where employees can readily access the information (**see page 2 of Appendix F**).
- c. Provide updated information annually to the division regarding other transportation providers and their unions operating in the same geographic area.

Public Transit Division monitors compliance by:

- a. Obtaining the signed Section 5333 (b) Warranty from all 5311 subrecipients (and 5310 subrecipients, if appropriate).
- b. Obtaining updated information from subrecipients for the annual report to DOL.
- c. Maintaining an accurate, up-to-date list of all Section 5311 subrecipients, including the service area of each project, other transportation providers in the area, and the labor organizations representing the employees of such providers. This information is provided to DOL annually.

12. Environmental Protection

FTA's environmental protection process is based on compliance with the National Environmental Policy Act (NEPA) and rules adopted by FTA to comply with the Act in transportation-related projects. The FTA's regulation requires different levels of analysis and documentation for the various types of funding.

Categorical Exclusions:

Most projects funded with Sections 5310 and 5311 funding are excluded from FTA environmental regulations because they fall into the "categorical exclusion" definition. The FTA classifies two groups of projects which are "categorically excluded."

- a. The first are activities and projects which have very limited or no environmental effects, such as planning, design, administration and operation of transit programs, and vehicle purchases. For these activities, no environmental documentation is required and subrecipients do not have to fill out a Documented Categorical Worksheet Form (DCE).
- b. The second group includes construction projects with potential for off-site impacts: passenger shelters, bus barns, new construction or expansion of transit service facilities, offices and parking facilities.

Public Transit Division only has the authority to grant a DCE to passenger shelter projects where there is little or no impact to land, including no change in traffic patterns, and where there is no public controversy for placement. FTA determines whether any other projects meet the requirements for a categorical exclusion.

Responsibilities of subrecipients—Categorical Exclusions

When a subrecipient's project requires ODOT Public Transit or FTA approval, in category b above, these are the steps required to obtain a Documented Categorical Exclusion (DCE) for the project:

- a. Review the "Construction Project Environmental Requirements Flow Chart" (**See Appendix E**).
- b. Fill out a "Documented Categorical Exclusion" (DCE) form (**See Appendix E**) and submit the form with appropriate attachments to Public Transit Division for processing.
- c. Do not start the project until a DCE for the project has been obtained from FTA, ensuring a copy is forwarded to the division, and you have a signed grant agreement with ODOT.

Responsibilities of subrecipients--Non-Categorical Exclusions:

- a. If a project does not qualify for a DCE, the applicant must satisfy all environmental conditions and reviews and provide required documentation to FTA (with a copy to the division) that all issues have been resolved.²⁵
- b. All costs are borne by the applicant, including Environmental Assessments or Environmental Impact Statements. Public Transit Division staff may provide technical assistance as needed.

Public Transit Division monitors compliance by:

- a. Screening potential projects to determine which projects clearly meet the FHWA/FTA criteria for categorical exclusions and which may require additional documentation.
- b. Providing technical assistance as needed to help subrecipients prepare the required DCE information for FTA.
- c. Ensuring a DCE determination for a project has been obtained from FTA prior to executing a grant agreement and the start of a project.
- d. Where a project is not a DCE, obtaining documentation from the subrecipient that all environmental issues have been resolved prior to execution of the grant agreement.

²⁵ Grantees may consult directly with state agencies such as the Environmental Protection Agency, Oregon Department of Environmental Quality, State Historic Preservation Office, or other agencies that may provide assistance in the environmental review process.

13. Lobbying

Reference: 49 CFR Part 20

Recipients of federal grants from any source exceeding \$100,000 annually must certify that they have not and will not use federally appropriated funds for lobbying. ²⁶ State agencies administering FTA Sections 5310 and 5311 programs certify to FTA. Section 5310 and 5311 subrecipients certify to the state. State agencies and subrecipients must impose the restrictions of lobbying on their third-party contractors and must obtain certifications.

Currently Section 5310 and 5311 subrecipients certify to Public Transit Division through the grant agreements and the annual certifications and assurances.

Specific contracts, grants or cooperative agreements are actions covered by the restrictions on lobbying. Examples of prohibited activities include seeking support for a particular application or bid and seeking a congressional earmark. Lobbying restrictions do not apply to activities that might influence policy issues.

Responsibility of subrecipients:

- a. Sign a certification of compliance pertaining to lobbying activities.
- b. Where third party contractors are involved subrecipients must obtain a signed certification of compliance from the contractor.
- c. If non-federal funds have been used to support lobbying activities in connection with a grant from ODOT-Public Transit Division, and the subrecipient receives federal grants exceeding \$100,000, fill out Standard Form-LLL and submit it to Public Transit Division (**see Appendix I—Forms**).
- d. If contractors received more than \$100,000 in federal funds and used non-federal funds to support lobbying, subrecipients must obtain the Standard Form-LLL from the contractor. (**see Appendix I—Forms**).

Public Transit Division monitors compliance by:

- a. Obtaining Standard Form-LLL from any subrecipients who used non-federal funds to support lobbying.
- b. Forwarding the forms to FTA Region 10 at the end of each quarter in which the activity was reported.
- c. Ensuring ODOT submits Standard Form-LLL to FTA, as applicable.

²⁶ Lobbying is defined as influencing or attempting to influence an officer or employee of any Federal department or agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with obtaining a federal grant, cooperative agreement, or any other federal award.

14. Debarment and Suspension

Reference: FTSA C 2051.1; FTA Annual Certifications and Assurances

To prevent fraud, waste and abuse in federal transactions, persons or entities that, by defined events or behavior, potentially threaten the integrity of federally-administered programs are excluded from participation in FTA-assisted programs. ODOT will not enter into any third-party or grant agreement with any party included in the "US General Service's Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs." This pertains to both FTA Sections 5310 and 5311.

Subrecipients receiving more than \$25,000 through a grant from Public Transit Division must certify they are not debarred or suspended from any Federal agency. This is accomplished through the grant agreements and the annual certifications and assurances.

Responsibilities of subrecipients:

- a. Sign a certification of compliance pertaining to debarment and suspension.
- b. Verify that a third-party contractor is not disqualified by a Federal agency. Obtain a signed certification (**see Appendix I--Forms**) or add a clause or condition to the contract or subcontract regarding debarment and suspension.

Public Transit Division monitors compliance by:

- a. Obtaining certifications of compliance from subrecipients prior to execution of grant agreements.
- b. When ODOT lets a third-party contract exceeding \$25,000 that uses any amount of FTA funding, the contractor will be required to submit a completed integrity certification prior to awarding the final contract. In the case of vendor identification through the DAS purchase program, and although an actual purchase has not taken place, a signed integrity certification will be obtained prior to final vendor selection.

XIII. Capital Purchasing and Management of Capital Assets

1. Vehicle Purchasing and Leasing

Public Transit Division does not purchase vehicles directly with state or federal funds. Grant recipients are responsible for purchasing equipment and services financed by grants. Recipients may make purchases through Oregon Department of Administrative Services (DAS) purchasing agreements. DAS helps the division contract for appropriate vehicles to the needs of public transportation providers.

Beginning in the fall of 2007, recipients may be required to purchase all vehicles of the types and sizes on the DAS State Purchasing price agreements. The online ORPIN system operated by DAS will have a list of qualified vendors for each vehicle type contracted for in Categories C, D and E. See vehicle standards for descriptions in Section 4. below. Vehicles larger than 30-passenger would still be procured by provider agencies using an open competitive bid processes that follows state procurement laws and rules. Any RFP must be reviewed by the Public Transit Division prior to signing with a vendor. By using the state price agreements, the division creates the bid specifications with input from providers and DAS does the bid, making these vehicles available at a reasonable price. Other group purchasing arrangements for larger vehicles are sometimes available through the “piggybacking” process.

Subrecipients have the option of leasing vehicles when it is cost-effective. For instance, it may be appropriate to lease a vehicle in order to start new or expanded service before procurement of a new vehicle can be accomplished. Subrecipients must use normal procurement procedures for leases of vehicles not on the state price agreement. All leases must be submitted to the division for approval.

The Public Transit Division offers technical assistance concerning the lease or purchase of equipment. The division is responsible for protecting the state and federal interest in all equipment and facilities purchased.

Responsibilities of subrecipients:

- a. On all vehicles purchased with ODOT Public Transit Division grant funds, the titles are required to show the transportation provider as owner and Public Transit Division as the primary security interest holder.
- b. If Special Transportation Fund (STF) formula monies are used as local match for a purchase, the STF Agency must be the vehicle owner on the title or be listed on the title as secondary interest holder.

- c. Vehicles cannot be transferred to another party without the division's knowledge and approval.
- d. Grant recipients must submit any lease agreements for 5310 or 5311 vehicles to the division for approval. Subrecipients must receive approval in writing from the division before entering into the agreement.
- e. Recipients are responsible for receiving all federally-required certifications from manufacturers on FMVSS and Buy-America for each vehicle type purchased. Recipients must receive a copy of Altoona/STURAA bus test reports on each vehicle type as part of the post-delivery acceptance of the vehicle and keep this report with procurement files. These requirements are also required when piggybacking on any bids, including the state price agreement.
- f. The recipient is responsible for paying any registration and licensing fees, and is required to license the equipment per Oregon Motor Vehicle Regulations.²⁷
- g. Private agencies are not eligible to operate vehicles with license plates identifying the vehicle as government owned, commonly referred to as "E-plates" unless they are being supervised by a public agency. Private agencies may lease vehicles owned by a public agency, but must not license them with "E-plates."
- h. Grant recipients must obtain insurance coverage to protect the operators, assistants, occupants and the equipment during the life of the project. These requirements are outlined in the grant agreement.

Public Transit Division monitors compliance by:

- a. Including vehicle purchasing and insurance requirements in grant agreements.
- b. Verifying with the subrecipients that vehicle registration and licensing is correct.
- c. Reviewing and approving requests to transfer vehicles to another party.
- d. Releasing vehicle titles to subrecipients when useful life standards are met.
- e. Reviewing vehicle lease agreements prior to execution to help ensure all state and federal requirements are met.

²⁷ Because of funding requirements, it is common for STF Agencies to own vehicles that are operated by another agency, usually a private non-profit. It is the **operator's** legal status that determines how the vehicle is licensed, not the owner's, per DMV administrative rules. Public Transit Division recommends that when a lessee/lessor relationship exists, even if it is a handshake arrangement, that the registration accurately reflect the relationship and that the vehicle be licensed appropriately.

2. Vehicle Insurance

Grant recipients purchasing vehicles must obtain insurance to protect the subrecipient, vehicle drivers and assistants, vehicle occupants and equipment through the period of use.

ODOT currently requires the following levels of insurance: (1) Property damage, \$50,000; (2) Bodily injury per person, \$200,000; and (3) \$500,000 bodily injury per occasion, uninsured motorist protection, and personal injury protection as required by ORS Chapter 806. The subrecipient is responsible for all costs, deductibles or self-insured retention. The subrecipient must include the "Oregon Department of Transportation, Public Transit Division" as "Additional Insured" and provide a certificate of insurance documenting ODOT as an additional insured.

Responsibilities of Subrecipients

- a. Obtain insurance as required by ODOT, Public Transit Division for all vehicles.
- b. Include the Oregon Department of Transportation as "Additional Insured" and request the insurance company to provide a copy of the insurance certificate to the division.
- c. Uninsured vehicles shall not be driven.

Public Transit Division monitors compliance by:

- a. Including insurance requirements in all subrecipient grant agreements;
- b. Obtaining certificates of insurance from the insurer documenting that the agency has the required insurance coverage;
- c. When the division receives notice of insurance cancellations, staff will contact the agency involved and require reinstatement of insurance.
- d. Public Transit Division may transfer the vehicle to another provider if insurance is not obtained within a 90-day period.

3. Vehicle Maintenance

Public Transit Division and subrecipients are responsible for vehicles and other equipment financed by federal grants. Vehicles must be maintained in good or better condition and must be used for the purposes described in the grant agreement.

Vehicle equipment condition is assessed as new, excellent, good, good-rehabilitated, fair, poor, or out of service. Indicators of vehicle condition can include, but are not limited to, age, mileage, tire wear, readily visible exterior vehicle condition (visible body damage or deterioration) and interior condition (torn seats, broken fixtures), condition of lights, mirrors and windows, and presence of fluid leaks. The division expects subrecipients to make necessary interior or exterior repairs to vehicles in a timely manner.

Public Transit Division's goal is that vehicles and equipment be used as long as the equipment remains in good, safe condition. The division has the option to take a security interest in tangible assets and, if necessary, foreclose on the assets if they are not properly maintained.

Responsibilities of subrecipients:

- a. Develop written vehicle maintenance policies and plans that at least meet the minimum inspection schedules and preventive maintenance procedures recommended by the vehicle manufacturer to keep vehicles in good condition. The grantee may substitute an equivalent preventive maintenance program with the permission of the division.
- b. Maintain records for each vehicle.
- c. Include in maintenance plans regular vehicle inspections (including pre-trip and post-trip inspections), routine maintenance and other maintenance as necessary to ensure "good or better" vehicle condition for all vehicles operated directly by the recipient, subrecipient or contractors.
- d. Include in maintenance plans regular pre-trip and post-trip inspections of equipment, including cycling the lift as required by ADA.
- e. All drivers of vehicles purchased with FTA Section 5310 and 5311 funds must receive a standard defensive driving course.
- f. Annual vehicle safety inspections for each vehicle by a certified mechanic. (Standard cost is approximately \$100-\$150, reimbursable through preventive maintenance grant agreements or operations grants if no preventive maintenance grant is in place.)
- g. Agencies purchasing or operating vehicles with grant funds, either directly or under contract, are required to obey all applicable state

and federal laws pertaining to the operation of passenger-carrying vehicles.²⁸

- h. Notify ODOT Public Transit Division if a vehicle is out of service more than 90 days.

Public Transit Division monitors compliance by:

- a. Maintaining an inventory listing of all vehicles purchased with state or federal funds.
- b. Periodically conducting reviews of maintenance practices and annual maintenance reports, either during on-site program reviews or as separate reviews.
- c. Suspending vehicles from service if a visual inspection indicates that the equipment is being maintained poorly or is being operated in an unsafe manner. Maintenance or safety issues must be resolved before a vehicle is put back in use.
- d. Monitoring the maintenance practices for other types of capital equipment purchased with federal grants. This is performed during on-site program reviews.

²⁸ Such regulations include USDOT Federal Motor Vehicle Safety Regulations, Oregon Motor Vehicle Safety Regulations, Oregon Motor Vehicle Code, and applicable Internal Revenue Service rules and regulations (including fuel excise tax), among others. Grantees may be referred to these other regulatory agencies by PTD when violations may have occurred.

4. Vehicle Useful Life / Disposition

The following chart shows the recommended useful life of certain public transit vehicles commonly used in Oregon. These guidelines are used for planning purposes for fleet replacement or when assessing capital grant applications (project justification and project planning).

When a subrecipient requests to retire a vehicle, Public Transit Division will take into consideration the useful life information. The vehicle's condition and reliability are based on service records. Maintenance costs will also be considered.

VEHICLE USEFUL LIFE CHART (Federal Standard) Useful Life = years or miles, whichever comes first		
VEHICLE TYPE & ODOT PTD CATEGORY	USEFUL LIFE IN YEARS	USEFUL LIFE IN MILES
A. Large, Heavy-duty Transit Bus. Built on heavy-duty chassis, lift-equipped (35 to 40 ft.). Includes articulated bus.	12	500,000
B. Medium-size, Heavy-duty Transit Bus (~30 ft., 25-35 passengers). Built on heavy-duty chassis, lift-equipped.	10	350,000
C. Medium-size, Medium-duty Transit Bus (~30 ft., 16-30 passengers). Built on medium-duty chassis, lift-equipped.	7	200,000
D. Medium-size, Light-duty Transit Bus (24-30 ft., 12-16 passengers); includes Body on Chassis Vehicles, lift-equipped.	5	150,000
E. Small, Light-duty Bus (9-12 passengers); Modified Van & Mini-Van, Standard Van & Mini-Van, Station Wagon, Sedan (3-14 passengers).	4	100,000

Grant recipients are expected to use equipment purchased with funds awarded by Public Transit Division for the useful life of the equipment or for the duration of their transportation projects. Grantees are required to notify the division if the equipment has not been used in excess of 90 days. If the project is at an end and useful life remains, the division will transfer the vehicle to another eligible agency.

Grant recipients are required to contact the division when vehicles have reached the end of their useful life, the grant recipient can no longer use them, the original purpose for the vehicle changes, the service is terminated, or the project ends. Titles are released to the owner at the end of the useful life. The agency is then free to use or sell the vehicle and keep the sales proceeds, but must reinvest them into the transit program for which the vehicle was purchased.

Local agencies may adopt their own rules and procedures for disposing of federally-funded surplus property so long as the vehicles are disposed of in an open, public process; and the revenues from the sale of vehicles goes back into the transit program.

If the fair market value is less than \$5,000, the vehicle may be sold and all the proceeds kept by the grantee. If the grantee is a public entity, the grantee may sell the vehicle via public auction. If the grantee is a private entity, either a local public agency or DAS state surplus must sell the vehicle via public auction. Costs for the sale are deducted and monies returned to Public Transit Division. Grant recipients receive the match portion based on the selling price. The monies returned are put into the ODOT Transportation Development fund and are distributed through the discretionary grant process.

Responsibilities of subrecipients:

- a. Contact Public Transit Division for technical assistance regarding all aspects of vehicle disposition.
- b. Notify the division if equipment has not been used for 90 days. This should be reported on the quarterly report. The division has the option to transfer the vehicle to another agency that can use the vehicle.
- c. At the end of a vehicle's useful life, if the vehicle is sold the subrecipient must invest any proceeds into the transit program that funded the vehicle's purchase.

Public Transit Division monitors compliance by:

- a. Providing technical assistance on all aspects of vehicle disposition.
- b. Reviewing vehicle information provided on quarterly reports.
- c. Coordinating with DAS the sale of any vehicle in which state funds were used to purchase the vehicle.

5. Procurement/Contracting

Reference: 49 CFR Parts 18 and 19; FTA C 4220.1E; FTA C 9040.1E (V1.3) FTA C 9070.1E

FTA Section 5310 and 5311 subrecipients must comply with all federal, state and local laws, ordinances, regulation and policies, which might affect contracting. Third-party contracting is governed by the circulars identified above and applies to all grantees that contract with outside sources under FTA assistance programs. Public agencies are required to follow state procedures using mandatory federal clauses and limitations. Private nonprofit agencies must follow the procedures defined by FTA Circular 4220.1E in its entirety and 49 CFR Part 19.

Responsibilities of Subrecipients:

- a. Develop written procurement policies and procedures, including a process for handling protests regarding procurements.
- b. For public agencies, comply with the five basic federal requirements for procurements.²⁹
- c. For private nonprofits, comply with the provisions of FTA C 4220.1E and 49 CFR Part 19.
- d. All subrecipients must follow State of Oregon procedures regarding procurement thresholds (dollar amounts).
- e. Submit all lease agreements to Public Transit Division for review and approval prior to signing a lease agreement.
- f. Submit third-party contracts and procurements to the division for review and approval prior to executing the contract. Public Transit Division will respond within 30 days.
- g. If subrecipients would like technical assistance, they may request help. Public Transit Division will respond within 30 days.

Public Transit Division monitors compliance by:

- a. Including in grant agreements all federally-required certifications, assurances, and clauses for procurements as appropriate to the type of purchase and price.
- b. Reviewing and approving third-party contracts if required, prior to final grant award.
- c. Reviewing and approving leases for all vehicles prior to executing a grant agreement.
- d. Providing technical assistance in the preparation of requests for proposals, vehicle and construction specifications, bid documents, and subcontracts.³⁰

²⁹ See CFR Part 18: Provide full and open competition; exclude in-state or local preference; include federally required clauses, **obtain FTA approval for contracts greater than 5 years**; use procedures based on Brooks Act for architectural and engineering procurements unless state statutes have been adopted.

6. Buy America Provisions/Pre-Award and Post-Delivery Audits/New Model Bus Testing

Reference: 49 CFR Part 661; 49 CFR Part 663;

Buy America: *Buy America* provisions are federal “domestic content” regulations. Buy America affects vehicle and equipment purchases and construction contracts valued at \$100,000 or more. It provides, with exceptions, that federal funds may not be obligated for transportation projects unless the steel and manufactured products used in them are produced in the United States. FTA makes exceptions to the Buy America requirement in four situations (see references above for details).

FTA reviews requests for waiver of the Buy America requirements on a case-by-case basis. If a waiver is required, the appropriate time for a subrecipient to seek FTA approval is after bids have been accepted, but before the bid has been awarded. The Public Transit Division will receive requests for Buy America waivers and forward them to FTA.

Additional requirements for vehicle purchases went into effect October 24, 1991. These requirements ensure that all vehicles meet the Buy America requirements, Federal Motor Vehicle Safety Standards (FMVSS) and the subrecipient's specifications.

Pre-Award and Post-Delivery Audits: Procurements for vehicles must be in accordance with “Pre-Award and Post-Delivery Audits of Rolling Stock Purchases” (49 CFR Part 633; Federal Register March 31, 1992). The rule requires that any subrecipient who purchases rolling stock certify to the FTA that it has conducted a pre-award and post-delivery audit to ensure compliance with its bid specifications, Buy America requirements and Federal Motor Vehicle Safety Standards. Visual inspection and road testing are required when purchasing unmodified vans, cars, or 20 or fewer buses. Resident inspection is required when purchasing more than 20 buses or modified vans from a single manufacturer.³¹

New Model Bus Testing: New bus models must be tested at the FTA sponsored test facility in Altoona, PA before FTA funds can be expended to purchase them. The FTA rule exempts certain vehicles from testing

³⁰ The *FTA Third Party Procurement Manual* is available from Public Transit Division and provides additional technical assistance on procurement.

³¹ More information is available in the publication *Pre-award and Post-Delivery Audits for Bus Procurements* published by the Federal Transit Administration, document #DOT-T-94-06. It is available through the PTD (see appendices).

(usually sedans and non-modified vans). The primary purpose of the testing program is to determine the strengths and weaknesses inherent in the particular model for typical operating conditions. Ideally, subrecipients use the bus-testing report as one of the criteria used to select the vehicle for purchase.

Subrecipients purchasing equipment with federal funds are required to receive the Altoona/STURAA bus test report for each vehicle purchased and include it in procurement files if the test is required. The report should be provided by the vendor prior to subrecipients signing off on post-delivery certification forms and acceptance of the vehicle(s) from the vendor.

Responsibility of subrecipients:

- a. Review the manufacturer's Buy America certification and supporting documentation before a contract is awarded to purchase vehicles (pre-award audit). The documentation review should include vehicle sub-components (place of origin, cost and place of final assembly). Subrecipients must determine to their own satisfaction that the manufacturer can meet the Buy America requirements.
- b. Perform a post-delivery audit after vehicles have been delivered. This post-delivery audit ensures that the manufacturer complied with Buy America, the Federal Motor Vehicle Safety Standards, and the subrecipient's specifications. Subrecipients must complete the post-delivery audits before they accept the vehicles and pay the vendor.
- c. Submit all documentation and certifications to Public Transit Division. Documentation must be received by the division prior to final payment to the grantee.
- d. Contact the division for technical assistance if needed.

Public Transit Division monitors compliance by:

- a. Including Buy America, pre-award and post-delivery audits and New Model Testing requirements in applicable grant agreements.
- b. Reviewing requests for waivers to Buy America requirements and forwarding them to FTA.
- c. Reviewing agency procedures regarding Buy America, pre- and post-delivery audits and bus testing requirements during on-site program reviews.
- d. Reviewing and approving all documentation and certifications provided by the subrecipients prior to making reimbursements on grant agreements.

XIV. Land, Buildings and Facilities

1. Maintenance Requirements

Properties purchased or constructed with federal or state funds such as land, buildings (i.e. bus barns), and facilities (i.e. passenger shelters and transfer stations) should be maintained free of defects and graffiti to ensure the area is in usable condition and a safe environment. The properties must be used for the purposes described in the grant agreement.

All subrecipients are required to have maintenance plans for buildings and facilities and submit them to Public Transit Division.

2. Restrictive Covenants

Public Transit Division requires that land and permanent buildings purchased or improved with federal or state funds have a restrictive covenant filed with the property deed. The covenant is to protect the federal interest in the property. (Because passenger shelters are not permanent buildings, they are exempt from this requirement.)

3. Disposition of Property

Land, buildings or facilities purchased or improved using federal or state funds may only be used for the originally authorized purpose. Such property shall not be transferred to another party, disposed of, its title encumbered or have other liens or claims imposed, without obtaining the approval of Public Transit Division pursuant to the procedure below.

When property funded with federal or state funds is no longer needed for the originally authorized purpose, the subrecipient is required to contact the division for disposition instructions. The options are as follows:³²

- a. Retain title of the property after compensating the awarding agency (ODOT);
- b. Sell the property and compensate the awarding agency (ODOT);
- c. Transfer title to the awarding agency (ODOT) or to a third-party designated or approved by the awarding agency.

The fair market value of the property shall be used when property is sold, transferred to another party, or voluntarily converted to a non-transit use by the transit agency. Subrecipients must have a commercial appraisal or other fair market valuation to determine fair market value. Public Transit Division must review the fair market valuation if a commercial appraisal is not used.

³² See 49 CFR Part 18.31. ODOT uses federal guidelines for disposition of properties funded with state funds.

When compensating ODOT under the procedures identified in number 3.a and 3.b above, ODOT receives an amount equal to the fair market value times the percent of federal or state reimbursement as identified in the original grant agreement. The subrecipient retains an amount equal to the fair market value times the percent of match provided as identified in the original grant agreement.

The disposition of property that is involuntarily converted (i.e. acts of God, other) will be negotiated on a case-by-case basis between ODOT and the subrecipient.

Subrecipients must reinvest any funds received from the sale of property or insurance proceeds into the transit program. Funds received by ODOT shall be reinvested into the Discretionary Grant Program.

Responsibilities of subrecipients

- a. Contact Public Transit Division for technical assistance regarding any applications for discretionary grant funding for land acquisition or development of permanent structures.
- b. Submit maintenance plans for land, buildings and facilities to Public Transit Division.
- c. Name ODOT as additional insured for premise insurance.
- d. Contact the division for assistance regarding disposal of land, buildings or facilities acquired with federal or state funds.
- e. When disposing of property, obtain a commercial appraisal or other fair market valuation, and submit the documentation to Public Transit Division for approval.
- f. Compensate ODOT as described above if disposing of property.
- g. Reinvest any proceeds from the sale of property into the transit program.

Public Transit Division monitors compliance by:

- a. Obtaining restrictive covenants on land or permanent buildings prior to project conclusion and final payment.
- b. Providing technical assistance to grantees regarding the restrictions on use and disposal of land, buildings or facilities purchased with federal or state funds.
- c. Approving the determination of fair market value if a subrecipient is disposing property.
- d. Approving the transfer of property to a third party.
- e. Keeping an inventory of land, buildings or facilities purchased with federal funds.
- f. Reviewing subrecipients' procedures through desk reviews or on-site reviews to ensure maintenance plans are being followed.