



State Management Plan

For

Public Transportation

Prepared by

North Dakota Department of Transportation

Local Government Division, Transit Section

In Cooperation with

The U.S. Department of Transportation

Federal Transit Administration

June 2015

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INTRODUCTION

The North Dakota Transit State Management Plan (SMP) is a document which describes the state policies and procedures for administering the Federal Transit Administration's (FTA) Section 5311 program of transit assistance for rural areas, Section 5311(f) intercity bus program, Rural Transit Assistance Program (RTAP), Section 5310 capital assistance program for Enhanced Mobility of Seniors and Persons with Disabilities and Section 5339, Bus and Bus Facilities Program.

In addition, this document explains in detail the various transit funding programs available in North Dakota and will also serve as an information source for disseminating transit information to the general public and all other interested parties.

This Transit State Management Plan explains the policies and procedures used by the North Dakota Department of Transportation (hereafter referred to as NDDOT) in administering the various federal and state transit program funds available for supporting and improving public transit services in North Dakota.

It should be noted that the state transit program guidelines and regulations contained herein closely parallel the Federal Transit Administration's (FTA) program guidelines and regulations with some variations to provide for state policies and procedures pursuant to North Dakota transit goals and objectives. State requirements in the SMP may be more restrictive, but not less restrictive than Federal requirements. FTA regulations can be found at FTA's website at www.fta.gov, for more specific information click on "legislation, regulations and guidance" or "Grants and Financing."

Re-evaluation of policies will be considered on an ongoing basis. If you have comments or a request for revision, please forward it to the NDDOT Transit staff. The SMP is intended to facilitate both state management and FTA oversight by documenting the state's procedures and policies for administering these programs in a single reference.

NDDOT is issuing its revised SMP for the programs listed below in a single document. NDDOT administers the following FTA grant programs with "older" funding appropriated under P.L. 111-68 Safe, Accountable and Flexible Efficient Transportation Equity Act: a Legacy for Users (SAFETEA-LU) as well as any cross cutting requirements under P.L. 112-141, Moving Ahead for Progress in the 21st Century (MAP-21):

- Capital Assistance for the Elderly persons and Persons with Disability (49 USC 5310) – provides funding to states for the purpose of assisting non-profits and others in meeting the transportation needs of the elderly persons and persons with disabilities;
- Formula Grant for Rural Areas (49 USC 5311) – provides funding to states for the purpose of supporting transportation in rural areas with a population of less than 50,000;
- Formula Grant (49 USC 5339) – provides capital funding to address capital replacement challenges for both rural and small urban areas.

PROGRAM GOALS

The goal of the state transit programs (both federal and state funding programs) is to provide a safe, efficient, environmentally sound and fiscally responsible transportation system that promotes economic growth and enhances the quality of life in North Dakota. By increasing the mobility of the transportation disadvantaged persons and the general population in all areas and localities of North Dakota, access to health care, shopping, education, recreation, public services and employment is increased. This will be accomplished by establishing and supporting public and special needs transportation systems wherever needed and appropriate throughout the state.

PROGRAM OBJECTIVES

The NDDOT objectives are consistent with the FTA program goals. The FTA program goals and objectives of the individual programs are to continue growth in all areas of North Dakota by utilizing the available federal and state funding programs to:

- Provide operating funds to support and maintain existing transit services and also assist in establishing new services, so that transportation disadvantaged persons and the general population in all areas of the state will have access to at least a minimum level of public or special needs transportation services;
- Provide capital funds to the existing public as well as special needs transportation systems to upgrade their buses and related transit equipment to ensure the continued viability of these systems and the transit services they provide;
- Provide grant funds to maintain and promote coordination of transportation systems and services in the state;
- Provide technical assistance to existing, special needs and new public transportation systems to increase the effectiveness and efficiency of their transit services;
- Work with all state agencies involved in providing transportation services to coordinate state and federal transportation programs.

ROLES AND RESPONSIBILITIES

In 1975, when the first annual apportionment of federal transit funds became available to the state of North Dakota under the FTA Section 5310 Program (Transportation Assistance for the elderly persons and persons with disability), the Governor of North Dakota designated the State Department of Transportation to administer all other federal transit programs in North Dakota funded under the Urban Mass Transportation Assistance Act of 1964, as amended. Reaffirmation of this designation for the Section 5310 program was made on January 28, 1985.

In 1979, when the Section 5311 Rural Transit Assistance Program was implemented by FTA, the Governor once again designated the State Department of Transportation to administer this program.

The designation of Rural Transit Assistance Program was dated January 5, 1979. Documentation of these designations is on file with the FTA Region VIII office.

Specifically, the NDDOT Transit is responsible for:

- Developing all administrative procedures, processing all financial documents for reimbursement of operative deficits and maintaining local financial accountability through standard audit practices;
- Monitoring the expenditures of funds in all contracts that have been awarded to the providers;
- Managing subrecipient selection process, notifying eligible subrecipients of the availability of programs, developing selection criteria, soliciting applications, reviewing and recommending projects for approval by NDDOT Management as part of a committee
- Managing grant agreements, amending grant agreements, developing and executing grant agreements with eligible subrecipients;
- Managing data, collecting financial reports, operating statistics and vehicle data, maintaining databases, monitoring and evaluating transit system performance;
- Managing federal grants, program of projects, reporting and grant closeouts;
- Monitoring subrecipient compliance with federal requirements;
- Engaging in planning and research activities, transit plans and studies;
- Providing technical assistance, training and workshops for subrecipients;
- Submitting an annual report to the National Transit Database that contains the information required to be stated in all Section 5311 transit programs in North Dakota;
- Submitting a Federal Financial Report, final budget and final Program of Projects through the FTA system, within 30 days of final expenditure of all funds in a federal grant;
- Compliance reviews and site visits (facility and vehicle inspections) to those transit providers in North Dakota that receive FTA Section 5310 and/or 5311 funding for their programs. If the transit staff finds that a transit provider is non-compliant, the staff may implement more frequent reviews.

Other divisions who assist the Transit section are;

- Finance Division – assists in grant management, subrecipient requested payments, Milestone Progress Report (MPR's), Federal Financial Reports (FFR's), etc.;
- Civil Rights Division – assists with Title VI, Limited English Proficiency (LEP), and Disadvantaged Business Enterprise (DBE);
- Communication Division– assists with press releases, advertisement, and other public communications
- Programming Division – assists with STIP and TIP programs.

PROGRAM YEAR

The program year for Section 5310, 5311, 5339 and State Aid funding is the North Dakota state fiscal year (July 1 to June 30). The grant funds are available to the local transit providers from July 1st of the current year until June 30th of the following year. All grant applicants are due April 1st of each calendar year.

Section 5310 includes capital and operating funding, Section 5339 is capital funding only, and Section 5311 includes capital, operating and administration funding.

APPLICATION REVIEW AND APPROVAL SCHEDULE

The State's annual announcements shall provide a schedule of dates for application submittals and review by NDDOT's Grant committee.

The general application review and approval schedule for applications are:

April	Receipt of all applications;
April/May	Proposals reviewed by NDDOT's grant committee;
May	Grant Committee recommendations are submitted to Director of Office of Transportation Programs for review; approved by Deputy Director
June	Contract preparation and notification.

NORTH DAKOTA STATE AID FOR PUBLIC TRANSIT PROGRAM

In 1989, the North Dakota State Legislature enacted House Bill 1337 which initiated State Aid Funding for Public Transit in North Dakota. This state legislation established a State Public Transportation Fund to provide transportation aid payments to political subdivisions and nonprofit transit providers in each county for the purpose of establishing and supporting public transit services. The State Aid for Public Transit program is listed in the North Dakota Century Code (NDCC) in Section 39-04.2-04.

In 2009, Senate Bill 2012 established a new formula for the public transportation fund and authorized the Director of the State Department of Transportation to administer this program. The Department of Transportation will disburse the funds according to specific guidelines established by the legislation. The funds must be used by transportation providers to establish and maintain public transportation, especially for the elderly persons and persons with disability. Funds may be used to contract public transportation as matching funds in order to procure money from other sources for public transportation and for other expenditures authorized by the Director.

Recipients for State Aid funding must comply with the same regulations as required for Section 5311 funding.

PLANNING ASSISTANCE

Sections 5303 Metropolitan Planning and 5304 Statewide Planning Funds and Research grant funds are provided to the urbanized areas of the state for various transit related planning activities.

FTA SECTION 5303 AND FTA SECTION 5304 – STATEWIDE PLANNING AND METROPOLITAN PLANNING

Section 5304 is a companion program to the Section 5303 program and provides an annual apportionment of federal transit planning funds to North Dakota for a variety of statewide planning activities. The state can use these funds for a variety of transit related purposes such as planning, technical studies and assistance, demonstrations, management training and cooperative research. Currently, these funds are combined with the Section 5303 funds and disbursed to the urbanized areas in the state for metropolitan planning activities.

Funding for rural transit studies is generally funded with FHWA State Planning and Research funds (SPR). Requests for planning needs can be made to the NDDOT, Local Government Division at any time.

Section 5304 funds shifted to the metropolitan areas are rolled into the Consolidated Planning Grant. The combining of FTA and FHWA planning funds allows flexibility in transportation, urban street and highway planning activities. Budget tracking and cost billing are also greatly simplified. Section 5304 and Section 5303 funds are distributed to the three MPOs by means of a distribution formula developed by the MPOs.

Two of North Dakota's urbanized areas (Fargo-West Fargo, and Grand Forks/East Grand Forks) are located at the North Dakota state line with Minnesota and have neighboring state line cities of Moorhead, Minnesota and East Grand Forks, Minnesota respectively. Minnesota planning funds allocated annually to these two Minnesota cities by FTA and FHWA are also pooled into the CPG to facilitate administration of these funds to these state line urbanized areas. The NDDOT is the lead agency and administers the combined CPG funds for both state line urbanized areas.

The MPO s

ubmits invoices for reimbursement monthly to NDDOT, Local Government Division.

FTA SECTION 5307 – URBANIZED AREA FORMULA PROGRAM

The section 5307 Urbanized Area Formula Program, was initiated by the Congressional passage of the 1974 Urban Mass Transportation Administration (UMTA) Act and subsequent federal transit legislation. This program provides federal funds to the Governors for transit capital, operating and planning assistance to urbanized areas having populations between 50,000 and 200,000 as designated by the U.S. Department of Commerce, Bureau of the Census. This program provides an annual apportionment of federal transit funds for North Dakota to support and improve public transit services in urbanized areas. The funds (which can be expended for capital, operating, administration and planning needs) are administered directly by FTA Region VIII and are made available to North Dakota’s three urbanized areas of Bismarck-Mandan, Fargo-West Fargo and Grand Forks.

NDDOT provides limited oversight of this program. The Department has the option of moving or reassigning the program funds among the three urbanized areas, as well as between the other FTA transit programs. The funds lapse four years after the time of apportionment if not obligated by the urbanized areas within the time frame.

METROPOLITAN AREA PARTICIPATION

Urban areas larger than 50,000 in population commonly form a Metropolitan Planning Organization (MPO) with Fargo-West Fargo, Bismarck-Mandan and Grand Forks/East Grand Forks fitting this designation. NDDOT has partnered with the MPOs through Memorandums of Understanding. The MPO is the lead agency in transportation planning for their respective area. The MPO solicits reviews and prioritizes transit projects in each area. Projects are then submitted to NDDOT.

Each MPO leads the coordination efforts in their area and all projects must be consistent with the MPOs Long Range Transportation Plan (LRTP), included in their Transportation Improvement Program (TIP) and be contained within the locally derived human services public transportation coordination plan. The MPO also has private sector planning that must be followed within the MPO study area. Changes to each plan must be made thru the appropriate process in each area.

Contact the MPO in your area for further details.

Bismarck/Mandan MPO	Steve Saunders	ssaunder@bismarcknd.gov
Fargo/Moorhead Metro COG	William Christian	christian@fmmetrocog.org
Grand Forks/East Grand Forks MPO	Earl Haugen	earl.haugen@theforksmmpo.org

FTA Funding Section Number →	5339	5310	5311
FTA Circular Number →	FTA C9300.1B	FTA C9070.1G	FTA C9040.1F
Eligible Subrecipients			
State and local governments	X	X	X
Public agencies	X		
Private companies engaged in public transportation under governmental organization	X	X	X
Non-profit organizations	X	X	X
Governmental authorities in areas with no non-profit organizations	X	X	X
Native American tribe	X	x	X
Intercity bus service			X

ELIGIBLE RECIPIENTS

Transportation service shall be for the general public. The geographical boundaries defined in the approved provider application will be the service area. This may include regular or periodic trips into a regional center or urbanized area. Trips into urbanized areas shall not be for the purpose of providing transportation services to persons within the urbanized area.

In order to be reimbursable, service must be open to the public. Service must be advertised as open to the public in all advertising, brochures, websites and posters.

FTA SECTION 5310 – TRANSPORTATION FOR THE ELDERLY PERSONS AND PERSONS WITH DISABILITIES

Section 5310 program funds may be used for capital and operating expenses in rural and urban areas to support transportation services to meet the special needs of the elderly persons and persons with disabilities. These funds are generally used to purchase vehicles.

Projects selected for funding under Section 5310 must be derived from a locally developed, coordinated public transit/human services transportation plan. These plans identify the transportation needs of persons with disabilities, elderly persons and people with low incomes and provide strategies for meeting these needs. Eligible subrecipients are private nonprofit organizations, governmental authorities where no non-profit organizations are available to provide service and intercity carriers, provided all federal qualifications are met.

Section 5310 grant funding is available for the year in which it is appropriated plus an additional two years (for a total of three years).

Examples of capital expenses include, but are not limited to:

- Buses and vans;
- Radios and communication equipment;
- Vehicle shelters;
- Wheelchair lifts and restraints;
- Vehicle rehabilitation or overhaul;
- Extended warranties which do not exceed the industry standard;
- Computer hardware and software;
- Initial component installation costs;
- Introduction of new technology into public transportation;
- Transit related intelligent transportation systems (ITSs);
- Supporting new mobility management and coordination.

STATE COORDINATION AND TECHNICAL ASSISTANCE

SAFETEA-LU requires projects under Section 5310 be derived from a locally developed, coordinated public transit-human services transportation plan for all FTA programs on behalf of underserved populations: Elderly Persons and Persons with Disabilities (Section 5310). The provisions of SAFETEA-LU aim to improve transportation services for persons with disabilities, elderly Americans and individuals with low incomes. The provisions ensure that communities coordinate transportation resources provided through multiple Federal programs.

NDDOT is working together with multiple areas to develop coordinated plans. Plans are to achieve the most cost-effective and efficient documents in delivering high quality transportation service. Each plan for coordinating transportation services will need to be developed to each community's needs, skills and resources. NDDOT will help to provide the tools, support the plan in funding and give guidance throughout the planning stages.

As our population ages and increases in size, changes need to happen in Public and Human Service Transportation to better service the changing community needs. NDDOT is moving forward to coordinate North Dakota's 53 counties so to better serve the communities' transportation needs.

4 (Four) Main Points of Plan

- An assessment of available services that identifies current transportation providers;
- An assessment of transportation needs of individuals to be served with the funding sought, that is, persons with disabilities, elderly persons and people with low incomes;
- Strategies, activities and/or projects to address the identified gaps between current services and needs, as well as opportunities to improve efficiencies in service delivery;

- Priorities for implementation based on resources (from multiple program sources), time and feasibility for implementing specific strategies and/or activities.

Process for Public Involvement

- Identified Stakeholders;
 - Local Officials, Community Based Organizations, Public Transit Providers, State & Local Human Service Agencies, Transportation Consumers and State & Local Transportation Planning Agencies
- Initial Meeting;
 - Date and Other Meeting(s)
- Establish Commitments and Form Partnerships;
 - Formal Agreements among Participants
- Specify Goals, Objectives, Constraints and Priorities;
 - For 5310
- Jointly Identify Client Needs;
 - Elderly Persons, Persons with disability and Persons with low income/welfare recipients
- Identify Transportation Resources (list shared resources);
- Design Detailed Service and Financial Options;
- Select and Recommend a Plan of Action;
- Describe Competitive Selection Process;
- Documented Confirm Agency and Community Commitments;
- Develop Implementation and Funding Plan Selected Alternative;
- Ranking/Funding Criteria Included;
- Project Budget Included;
- Executed Plan Executed Date(s), Signature Page and Board/Committee;

Through a coordinated planning effort NDDOT has implemented a uniform application and selection process for the Section 5310 program.

Once NDDOT receives the coordinated plan and application they are reviewed for compliance with NDDOT/FTA rules and regulations. After the review process is complete, the committee ranks all plans and applications. The committee will look at past performance measures, funding availability and long range feasibility and sustainability. This will ensure a fair and competitive process.

Coordination between the grant programs is maintained by comparing the Program of Projects (POP) of all projects together and not as individual programs. Best use of the funding is maintained by balancing the programs together and using appropriate funds for each grant request.

Interagency coordination is accomplished with regular meetings with the Department of Health Services Aging Services. Continual communication with this agency, subrecipients and any other comments received by the NDDOT are actively pursued.

Subrecipients actively communicate with the Human Services agencies in their area to ensure service to those in need.

FTA SECTION 5311 – RURAL AND SMALL URBAN AREAS

Section 5311 provides an annual apportionment of federal transit funds to North Dakota to support and improve public transit service in the rural areas (areas and localities under 50,000 in population). The funds may be used for capital, operating and administrative assistance to local public bodies, Native American tribes, nonprofit organizations and operators of public transportation services. Section 5311 funds are administered by this Department and are used to support public transit in the small cities and rural areas of the state.

Section 5311 grant funding is available for the year in which it is appropriated plus an additional two years (for a total of three years).

1. Operating Expenses are considered those costs directly related to system operations. At a minimum, the following items must be considered operating expenses:

- Fuel/oil;
- Vehicle and building insurance;
- Drivers' and maintenance salaries and fringe benefits;
- Rent and utilities;
- Licenses and fees;
- Maintenance, repairs and parts;
- Advertising/marketing;
- Training and Development;
- Drug & Alcohol Testing;
- Office Supplies and postage.

Net operating expenses are those expenses that remain after operating revenues are subtracted from eligible operating expenses.

At a minimum, operating revenues must include fare box revenues. Fare box revenues do not include payments made directly to the transit provider by human service agencies.

A cost allocation plan must be submitted and approved before indirect costs can be reimbursed. This plan can be one prepared for a different federal agency or one prepared for the FTA program. (OMB Circular A-87, FTA C 6100.1C Page IV-5, DHHS brochure ASMB C-10 and A-87 are references you may use in preparing the cost allocation plan.)

2. Administrative Expenses are those eligible project administrative expenses including general administrative expenses such as:

- Salaries and fringe benefits of the director, secretary and bookkeeper;
- Audit expenses;
- Legal;
- Travel.

3. Capital Expenses are the same as those listed under the Section 5310 program, with the addition of these capital items such as:

- Paratransit vehicles;
- Vehicle rehabilitation, remanufacture or overhaul.

The above list is by no means comprehensive as additional small capital items are also eligible.

4. State Administration is available to the state for use in transit administration such as consultant services.

FTA SECTION 5311(B) – RURAL TRANSIT ASSISTANCE PROGRAM (RTAP)

Section 5311(b) (3) RTAP is administered in conjunction with the Section 5311 program. It was established under the Federal Mass Transportation Act of 1987. RTAP provides an annual apportionment of federal funds to the state for transit training, technical assistance and other support activities to enhance transit operations and services in the state's rural areas. These are 100% federal funds with no local match required.

Any subrecipients receiving 5311 funds are eligible to request RTAP funds.

RTAP funds may be used to support transit activities in the following categories:

- National, regional and state conferences and workshops;
- Technical assistance;
- Training;
- Research;
- Related support services;
- Purchase of equipment to support any of the above activities

FTA SECTION 5311 (F) – INTERCITY BUS PROGRAM

NDDOT administers 5311(f) program funds in accordance with the federal Intercity Bus Program.

According to the Intercity Bus Assistance Program, NDDOT may contract with private providers of the intercity bus service to support intercity bus routes for the provider, or make grants to political subdivisions to support intercity bus service routes. Intercity bus service is defined as, “regularly scheduled public bus services that operates with limited stops between two urbanized areas or connects rural areas to an urbanized area.”

Through this program, NDDOT conducts outreach with the goal of obligating 15 percent of all annual 5311 funds for intercity bus projects. Service is requested through a grant application process with the intent of funding projects that meet the following objectives:

- The service has meaningful intermodal connections;
- The service project improves connectivity to or between major metropolitan areas that currently lack convenient or direct intercity bus service;
- The contractor demonstrates that they have the technical capacity, financial stability, marketing plan and requisite experience to be recipients of federal funds.

The reporting of financial information and reimbursement for services will be performed on a quarterly basis using the same provider controls and procedures as the 5311 program.

SERVICES AND SERVICE AREA

Public transportation services to be provided under 5311 funding program shall be available to all persons within the service area. The transportation service may either be provided by the applicant, by a private-non-profit provider or private-for-profit provider under contract to the applicant.

Public transportation programs must:

- Operate a minimum of 16-20 hours per week to receive 5311 funding (effective July 1, 2015);
- Charge a set fare – minimum of \$1.00 per boarding in town to receive 5311 funding (effective July 1, 2015);
- Participate in shared rides defined as such that transit may transport two or more passengers in the same vehicle who are otherwise not traveling together.

NATIONAL TRANSIT DATABASE

Section 5311 subrecipients are required to report revenues, expenses, service hours, service miles, ridership, and accident data each quarter. Additional data (e.g., vehicle and facility data) is collected directly from subrecipients. As required by 49 CFR Part 630, National Transit Database (NTD) mandated reports, due each year, are comprised of all data gathered based on the State of North Dakota fiscal year which runs from July 1 through June 30. NDDOT reports the data on behalf of its subrecipients. Urban and Tribal subrecipients report their data directly to the NTD.

ON-SITE REVIEWS AND COMPLIANCE REVIEWS

NDDOT Transit Section conducts compliance and on-site reviews of Section 5310 and 5311 subrecipients. Capital equipment purchased with FTA funds (primarily vehicles and facilities) is inspected by the NDDOT at least once every two years. This continues over the useful life of land, vehicles, facilities, and equipment to ensure it is well-maintained and continues to be utilized for the purpose intended. A copy of the vehicle inspection form is included (exhibit B).

In addition to the property and equipment inspections, the NDDOT Transit Section will conduct compliance reviews of each 5311 subrecipient in order to ensure the subrecipient is following FTA mandates.

The compliance review consists of monitoring the subrecipient's Drug & Alcohol policy, Vehicle and Facilities maintenance plan, Title VI and LEP plans, fiscal management procedures, and general operation procedures for their transit program.

If a subrecipient is determined to be noncompliant with FTA regulations following the compliance review, they will be notified and given a timeline to rectify all findings. Failure to resolve noncompliance issues may result in diminished or elimination of federal funding.

FTA SECTION 5339 – BUS AND BUS FACILITIES

Section 5339 is a program used to provide capital assistance for new and replacement buses, related equipment and facilities. Federal funds under this program are annually apportioned to the states. The program requirements under the Capital Investment Grant (49U.S.C.5339) were not changed under the SAFETEA-LU legislation.

Section 5339 grant funding is available for the year in which it is appropriated plus an additional two years (for a total of three years).

Section 5339 program funds may be used for capital projects in both rural and urban areas of the state. Examples of capital expenses include but are not limited to:

- Acquisition of vehicles for fleet and service expansion;
- Rehabilitation of buses (requires bus to be kept in service for 24 additional months beyond renovation date);
- Construction and renovation of bus maintenance and administrative facilities;
- Transfer facilities, transportation centers, intermodal terminals and park-and-ride stations;
- Purchase of replacement vehicles, vehicle rebuilds and vehicle preventive maintenance;
- Purchase of passenger amenities such as passenger shelters and bus stop signs;
- Purchase of accessories and miscellaneous equipment such as mobile radio units, fare boxes, computers, shop and garage equipment.

LOCAL SHARE AND LOCAL FUNDING REQUIREMENTS

The local applicant will provide the required local matching share for capital and operating assistance projects. The local matching share shall be cash from sources other than the U.S. Department of Transportation funds. All transit providers must provide proof that local match funds are from an allowable source to match federal funds and are not being obligated in another way.

The matching share for project administration, capital and operating costs may be from a source that includes state, local government, unrestricted federal or private funds. Applicants eligible for public transportation assistance may receive state funds to match their federal funds up to 50% of the deficit after the allotted federal funds. Applicants not eligible to receive state funds may provide the local match with a combination of unrestricted federal funds and local cash funds. Examples of local match that may be used for the local share include local appropriations, other non-federal DOT funds, dedicated tax revenues, private donations, revenue from human service contracts and the net income generated from advertising and donations.

Note: The following sources may NOT be included in local match funds:

- Federal USDOT funding;
- Farebox revenue;
- Other Federal Funds

METHOD FOR DISTRIBUTING FUNDS AND PROJECT EVALUATION CRITERIA

Through the annual application process, due to the state on April 1 of every year, eligible subrecipients prepare and submit application materials. Annual applications are then reviewed by the NDDOT grant review committee. The committee reviews eligible applications with consideration given to the amount of funding available and the amount of requests received. The committee will also consider the following when reviewing and awarding funds:

- Records/Claims submitted on time;
- Completeness and compliance with state and federal regulations/requirements;
- Financial plan that demonstrates fiscal capacity and reasonableness;
- Coordination relationships with other organizations and agencies;
- Demonstrated needs, past performance, vehicle maintenance, history of reliable service, cost per mile, technical capacity, technology and willingness to participate in training.

Penalties may apply for tardy or incomplete applications.

The grant committee is made up of 3 NDDOT employees and 4 non-NDDOT employees. The non-NDDOT committee members will serve a 3 year term and will be appointed by the transit staff.

Distribution of Section 5311 funds shall be allocated on the following basis:

- Up to 10% of the total allocation may be used by the NDDOT transit section for program administration and technical assistance;
- Up to 10% of the funds may be retained for emergency purposes and contingencies;

The balance will be available to existing systems for operating, administration, and capital assistance purposes.

The division of funds between operating, administration and capital purposes will be discretionary on a year-by-year basis. In general, emphasis will be given to operating assistance.

If necessary, preference in the allocation of funds shall be given to the transit provider that is best suited to serve areas which do not currently have access to public transportation, as well as to providers serving the needs of the general public, seniors and persons with disabilities. NDDOT does not allocate Section 5311 funding for construction, renovation or similar projects due to the need for capital purchase of buses, vans and associated equipment. It is the intent of NDDOT to fund operating, administration, Intercity, RTAP and capital in the 5311 program. It is the intent of NDDOT to fund vehicle purchases with the 5339 and 5310 grants.

Capital Funds Distribution

Capital fund requests are completed with the same annual application that is reviewed by the committee. The committee will review the capital requests with the same consideration for 5311 operating and administration funds.

FTA program funds for vehicles are allocated based on need, with the following considerations

- Vehicle age, mileage and condition;
- Vehicle replacement versus expansion;
- Service to new areas;
- Service on additional days;
- Service with increased hours.

NDDOT maintains records in the transit database for vehicles, facilities and other substantial assets purchased with FTA funds. The database is updated through the following:

- Self-certification – using forms provided by NDDOT, subrecipient verifies the presence and status of vehicles, facilities and other substantial assets;
- On-site reviews and during compliance reviews.

Requests for capital assistance are made available in the following order of priority:

- Projects to replace vehicles operated by existing systems;
- Projects to initiate a public transit service;
- Projects to replace maintenance and storage facilities of existing systems;

- Projects to expand the number of vehicles operated by existing systems;
- Projects to expand and rehabilitate maintenance and storage facilities of existing systems;
- Projects to purchase and install passenger amenities for existing systems such as shelters and bus stop signs.

ANNUAL PROGRAM DEVELOPMENT AND PROJECT APPROVAL PROCESS

The application submission and approval process for each of the grant programs results in approved subrecipient budgets and sub-grant agreements. This forms the basis for the program of projects.

An email announcing grant availability is sent to all current applicants as well as potential new applicants who have contacted NDDOT throughout the year. Selected projects and corresponding award amounts are based on criteria for Section 5310, 5311 and 5339 applications. Once the awards are determined, the details of each award are included in a program of projects that is submitted to the FTA as part of the TEAM/TRAMS application process.

Further, the program of projects for each program is incorporated into the State Transportation Improvement Program (STIP). Any projects and awards that may take place within boundaries of a Metropolitan Planning Organization (MPO) are incorporated into their respective Transportation Improvement Programs (TIPs). TIPs are further incorporated into the STIP by reference. A completed STIP is available on the NDDOT website.

The NDDOT annual grant cycle requires completed applications to be returned to the NDDOT transit section no later than April 1st. The application is used for requesting federal operating, capital and administration assistance funds.

The data from these applications is compiled and summarized into a summary sheet for the grant review committee.

After Executive Management has approved the review committee recommendations, the annual Program of Projects is started. The Program of Projects (POP) includes: name of recipient, project description, total dollar amount of the project and the federal dollar share for both operating and capital assistance funds. The following major areas of concern are checked in the NDDOT review of individual applications:

- Documented budget figures;
- Service area;
- Fare structure;
- Coordination with other public, private-nonprofit and private-for-profit transportation organizations;

- No duplication of service;
- Past service history;
- Compliance;
- Technology capacity;
- Reliable service and meeting attendance.

ANNUAL PROGRAM OF PROJECTS (POP) DEVELOPMENT AND APPROVAL PROCESS

The annual Program of Projects for each program is developed from the grants awarded. The Program of Projects is then reviewed by the NDDOT transit team. Upon agreement, the POP is uploaded into TEAM/TRAMS and uploaded onto the NDDOT Transit website.

ANNUAL STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP) REQUIREMENT

All subrecipients funded under the Sections 5310, 5311, RTAP (5311(b)) and State Aid programs are included in the NDDOT's annual Statewide Transportation Improvement Program (STIP).

All subrecipients funded with the Sections 5307 and 5339 programs in the states three urbanized areas are included in the local metropolitan area Transportation Improvement Program (TIP) and these also become a part of the STIP.

Sections 5303 and 5304 planning projects under any funding program can be, but are not required to be, listed in the local TIPs or STIP.

Any increase in funding during the program year must be included in the STIP by revision or amendment. Amendments in MPO areas may also need a TIP amendment. Contact the local MPO for policies and procedures for amendment.

FUNDS TRANSFER

Although it is the intent that all funds remain in their original grants, NDDOT may transfer Section 5310, 5311 and FHWA flexible funds to other programs as specified in the respective FTA circulars of these programs. Notice of the transfers is forwarded to FTA.

MEAL DELIVERY SERVICE

Meal delivery service must be incidental to the transit service. It must not interfere with transit. FTA must not pay for the meal delivery system. Reporting number of trips and miles for meal delivery should be kept separate, but can be reported to the transit section each quarter as information only.

ASSET MANAGEMENT

NDDOT ensures that all equipment acquired by subrecipients (for transit use) with federal funds is monitored as follows:

- NDDOT Transit staff visit facilities and inspect vehicles to confirm usage during on-site visits and compliance reviews;
- NDDOT Transit staff review operations and ridership reports to look for changing patterns.

Capital items are funded to provide general public transportation service in a specific area. If a subrecipient becomes unable or unwilling to continue the service, any equipment with useful life reverts back to NDDOT.

Subrecipients are permitted to use vehicles for administrative purposes under the following guidelines:

- Federally funded vehicles may be used for occasional travel of administrative staff trips where mileage would normally have been paid for the use of a personal vehicle. Travel to and from work is prohibited and/or weekend use for other than strictly business purposes is prohibited.
- Federally funded vehicles are not to be used by board members for their travel, unless they're on transit board business only.
- Use of all vehicles must be documented in a log that includes:
 - Name of the user;
 - Date;
 - Destination;
 - Initial odometer reading;
 - Ending odometer reading;
 - Trip purpose.

Inspection of vehicle logs are part of NDDOT routine site-visits inspections/compliance reviews.

Federally funded vehicles for incidental use (meal delivery, etc.) must be documented and the wholly allocated costs associated with that incidental use must be recovered by the Section 5311 provider and cannot be charged as an operating assistance expense.

NDDOT maintains a vehicle inventory which includes a detailed description of vehicle information and history. The NDDOT tracks vehicles by agency and per the following data:

- Vehicle year and year vehicle was first put in use;
- Vin number;
- Miles and condition;
 - Updated throughout fiscal year
- NDDOT as lien holder of vehicle;
- License plate and unit number;
- Make and model;
- Capacity;
- Purchase price;
- Type of vehicle;
- Program and grant number;
- If vehicle has a lift or ramp.

The inventory is kept current through reports and periodic physical inspection.

When other equipment is purchased locally, subrecipients are required to follow OMB and FTA grant requirements, FTA Circular 4220.1F and state law. Transit staff will review subrecipients' procurement policies before the purchase is made locally.

When a vehicle purchased with federal funds is sold or disposed of for more than \$5,000.00, the federal share of that amount must be returned to NDDOT either for future use in the program or returned to FTA.

All recipients are required to maintain an equipment file on each capital item having an original cost over \$5,000.00. This file inventory records will include:

- Description;
- Acquisition Date;
- Federal Participation Percentage;
- Condition;
- Disposition;
 - Method
 - Selling Price
 - Date of Sale
- Serial Number;
- Title;
- Source of Property;
- Location;
- NDDOT grant number;
- Cost.

In July 2012, Moving Ahead for Progress in the 21st Century (MAP21) established that all FTA grantees and their subrecipients will be required to develop transit asset management plans that include, at a minimum:

- Capital asset inventories and condition assessments; and
- Investment prioritization

With this in mind, the NDDOT applied for FTA funding to work with a software company to develop a Transit Asset Management (TAM) Plan and electronic program. The NDDOT has begun working with RouteMatch Software on this program. This project is moving along and the NDDOT has established three pilot transit agencies to test the program and offer suggestions as it is being designed.

As a condition of receiving federal funds, transit agencies will be required to submit an asset management plan to the NDDOT for review and approval. The plan must inventory all transportation system assets and provide a preservation plan based on lowest life cycle (LLCC) methodologies. For the purposes of the TAM Plan LLCC is defined as: “Lowest life cycle cost methodology is demonstrated by a cost model that reflects each agency’s policies and standards in a planned preventative/preservation maintenance program resulting in the lowest maintenance costs over the life of the asset. This methodology ensures that an asset is maintained at an acceptable condition maximizing safety and useful life.”

This means that incremental preventative maintenance activities are conducted to preserve the life of the asset. In addition to preserving the assets life, this approach results in lower maintenance costs over the life of the asset. When using LLCC methodology, transit agencies assess the cost of an asset over its projected useful life and take the preventative maintenance measures needed to avoid more costly repairs.

The NDDOT initial TAM Plan will address rolling stock and facilities, as follows:

- All rolling stock (Buses, plus other state-owned/funded vehicles)
- Facilities with a replacement value of \$5,000 or greater
- Other equipment with a replacement value of \$5,000 or greater

Changes and adjustments will be made to the project as it is being designed to address FTAs, NDDOT, and the Transit Agency’s needs. This project is on track to be completed in spring of 2016.

MAINTENANCE

Consistent with Federal requirements and NDDOT subrecipient’s agreement, each subrecipient must maintain its vehicles and other substantial assets purchased with federal or state funds. Transit agencies are required to have a documented maintenance plan along with preventative forms and checklists on file. Requirements in the plan include pre-trip inspections, wheelchair lift inspections and maintenance. Post-trip inspections are recommended but not required at this time.

Subrecipients are required to develop a maintenance plan covering their federally funded vehicles and to provide NDDOT with a copy of their plan. NDDOT will provide samples of plans upon request. Once adopted by the transit board, subrecipients are requested to submit the plans to NDDOT for approval.

Subrecipients must maintain all federally-funded property in good operating order and maintain ADA accessibility features. All maintenance performed on these vehicles must be documented and must be available for inspection by NDDOT or FTA staff or their representatives.

Each subrecipient is responsible for ensuring that each vehicle is maintained in accordance with vehicle manufacturers' standards and any neglect or misuse of equipment will be the responsibility of the local organization.

All property purchased with FTA funds shall have a written maintenance policy.

Vehicle maintenance plans must be adopted by the agency and copies distributed to appropriate personnel. ADA features such as lifts, ramps and tie downs must be maintained as recommended by the manufacturer. Documentation of maintenance must be maintained for 3 years beyond vehicle disposition.

Changes to the maintenance plans and process may be revised as the NDDOT TAM Plan and software program is implemented statewide.

USEFUL LIFE OF VEHICLES

The state and federal vested interest in vans, buses, 2-way radios and other transportation related hardware and equipment purchased with government grant funds shall extend over the useful life of such property. However, regardless of useful life having been met, federal interest remains until the value of the vehicle or equipment falls below \$5,000. The useful life of the equipment is established by the department and is listed below. This useful life criterion is also used by the Department in determining eligibility of local transit agencies for replacement vehicle and equipment grants.

Duration of Useful Life:




- For vans (up to 12 passenger and sold modified vans), the useful life is 100,000 miles or 4 years;
- For modified minis and light duty cutaway (up to 14 passenger and under 20 feet long), the useful life is 4 years or 100,000 miles;
- For medium size light duty cutaways (up to 16 passengers and under 25 feet long), the useful life is 5 years or 150,000 miles;




- For medium size medium duty transit cutaway (up to 30 passengers and under 30 feet long), the useful is 7 years or 200,000 miles. Cutaways will not be replaced with less than 200,000 miles;
- For medium size heavy duty transit bus (up to 35 passengers and under 35 feet long), the useful is 10 years or 350,000 miles. Buses will not be replaced with less than 350,000 miles.

Vehicles and equipment not covered by the above, the useful life will be established by the NDDOT Transit Section on a case-by-case basis at the time of purchase.

There is a special provision to allow for replacement of a bus or van before its useful life is spent, if it can be documented that the vehicle to be replaced is a lemon (i.e., has required extraordinary maintenance and repairs and has given service problems since being placed into service). In this case, the vehicle is to be traded-in for a replacement vehicle with the trade-in value deducted from the new bus grant.

After the useful life of a vehicle or related transit equipment is spent (as defined above), the Department will relinquish all interest and will no longer inspect such property nor require property insurance (collision/damage) to protect the government's interest in the property. Liability insurance and other coverage as required by state law must still be maintained. The NDDOT reserves the right to deviate from or make exceptions to the above inspection and useful life policy as may be necessary or appropriate in special cases or circumstances.

North Dakota DOT Category	Approx. GVWR in lbs.	No. Seats	Approx. Length	Useful Life Minimum
A. Large, Heavy-Duty Transit Bus 	33,000 - 40,000	35-40+	35 ft. – 40 ft. or greater	12 years or 500,000 miles
B. Medium-Size, Heavy-Duty Transit Bus 	26,000 – 33,000	24-35	30 ft. - 35 ft.	10 years or 350,000 miles
C. Medium-Size Duty Chassis Cutaway 	10,000 – 26,000	16-30	25 ft. – 30 ft.	7 years or 200,000 miles

<p>D. Medium-Size Light Duty Chassis Cutaway</p> 	<p>10,000 – 16,000</p>	<p>8-16</p>	<p>20 ft. – 25 ft.</p>	<p>5 years or 150,000 miles</p>
<p>E. 1. Small Cutaway E. 2. Modified Van E. 3. Modified Minivan</p> 	<p>6,000 – 14,000</p>	<p>3-14</p>	<p>E 1 20-22 ft. E 2 < 20ft. E 3 < 20ft.</p>	<p>4 years or 100,000 miles</p>
<p>E. 4. Vans</p>  <p>E. 5. Minivans</p>	<p>6,000 – 14,000</p>	<p>3-12</p>	<p><12</p>	<p>4 years or 100,000 miles</p>

DISPOSITION AND TRANSFER OF EQUIPMENT

Vehicle Title and Salvage Ownership

NDDOT will have a lien on the title to all federally and state funded transit vehicles until useful life is met. The Department reserves the right to protect the NDDOT, state and federal interest in the vehicle for the duration of the vehicle's useful life. The NDDOT arranges for regular inspection of vehicles to ensure proper maintenance.

Subrecipients will be required to dispose of all FTA funded items under the conditions of the FTA grant contracts (49 CFR 18.32). NDDOT will permit the transfer of used FTA and State Aid funded vehicles from one subrecipient to another. Transfer of vehicles will be in accordance with FTA and State policy on transferring capital equipment.

Subrecipients are required to submit a written request for disposal of the vehicle(s) or equipment they wish to dispose of to the NDDOT transit staff. The subrecipient must receive written authorization before disposing of the vehicle(s) or equipment.

A subrecipient may dispose of a vehicle at the end of its useful life in either of three ways:

- A vehicle may be sold to a third party through a variety of approved processes, including advertised sealed bids, auto auction or the average of two competent appraisals.

- A vehicle may be sold by the subrecipient to itself. In this case the implicit price to be paid by the subrecipient will be the average wholesale value of the vehicles as specified in the most recent National Automobile Dealers Association (NADA) Official Used Car Guide or The Bus Blue Book – Used Bus Values Guide.
- Relocation (transfer of vehicle) - the preferred option is the used vehicle or equipment be relocated to another similar, eligible organization for a maximum charge of 20 percent of the current market value. The 20 percent proceeds can be retained by the donor provider as a partial return on its initial 20 percent grant match. The new subrecipient organization shall pay the 20 percent and use the relocated vehicle or equipment for the same purpose as specified in the original grant program. The NDDOT will assist in finding subrecipient organizations for relocating used vehicles and equipment, as appropriate.

If a vehicle, having useful life, is sold to a third party, the subrecipient may retain the local share percentage contained in the agreement.

If a subrecipient sells a vehicle to itself, the subrecipient must pay 80% of the NADA wholesale value to NDDOT within 10 working days. When the disposition of the funded vehicle results in a gross sales proceeds exceeding \$5,000.00, the federal interest must be returned to NDDOT then FTA.

Satisfactory Continuing Control

Federal interest in real property exists until the property is disposed of. The amount of real property received from disposal of property must be used for transit use. The NDDOT ensures effective inventory controls through the establishment of vehicle useful life standards, a vehicle and facility inspection process and a transit vehicle inventory. Anytime a vehicle has met its useful life and is ready for disposition, subrecipients must notify NDDOT to get written consent to proceed with the removal of FTA property.

Disposition or Change of Use Property/Change of use of vehicles, equipment or property

NDDOT must be notified immediately of any vehicle, equipment or property whose purpose has changed from its original intended purpose. Insurance proceeds collected from vehicle damage will reduce the reimbursement allowable for repairs or a new vehicle. If insurance proceeds were collected and the repairs or replacement were not made, the amount must be subtracted (similar to fares) on the next request for operating reimbursement. Contact with NDDOT and FTA staff is required for disposal of real property.

MAINTENANCE AND INSPECTION

Inspections on buildings and vehicles will be conducted every other year to assure that the vehicles and buildings are being used for their intended use. The inspection will include reviewing maintenance records of vehicles and buildings to ensure that they are being maintained and fulfill their useful life.

BUILDING MAINTENANCE REQUIREMENTS

All buildings constructed with FTA grant funding must have and adhere to a written maintenance program. The goals and objectives of a maintenance program are to ensure that the facility is well-maintained, reducing the need for repairs that would be unnecessary if best practices for ongoing care and preventive maintenance had been accomplished on schedule.

In addition to standard building features, particular care is to be taken to ensure that accessible features of the facility are maintained in good working order. For example, ramps must be cleared and de-iced during the winter, automatic doors must operate properly, handrails must be firmly affixed, etc.

In addition, facilities constructed, renovated or remodeled using Section 5339 or other federal grant funds are required to record and enforce warranty claims for all components and equipment that are covered. This may include, but is not limited to, siding, HVAC components, flooring, windows, countertops, plumbing fixtures, bus storage bay doors, etc.

Facilities with state or FTA interest must have a building maintenance plan in place. All systems such as, but not limited to HVAC, roof, floor or plumbing shall be inspected according to manufacturer recommendations or monthly if there is no manufacturer recommendation. ADA features must be maintained as recommended by the manufacturer. Building maintenance checklists should be posted in a conspicuous area of the building.

VEHICLE MAINTENANCE REQUIREMENTS

All vehicles purchased using federal grant funding must have written maintenance procedures in place and these procedures must be followed. The purpose for this requirement is to ensure vehicles are in the best possible working order at all times and are safe for use in public transit service. Maintenance of ADA features must be included in the maintenance policy.

NDDOT recommends rural transit agencies adopt a policy of adhering to each individual vehicle's respective maintenance manual within a reasonable mileage number for the transit agency. For instance, if a transit agency finds their vehicle 50 miles from base at the recommended service interval, they may consider "within 150 miles of the vehicle's recommended service interval" to be a reasonable policy for ease of compliance.

The “within [how many miles] of” number will vary, both from agency to agency and within a multi-county organization, depending on where vehicles are based. Each transit agency must consider its own circumstances when developing a policy to ensure the policy is able to adhere to their vehicle maintenance requirements once the policy is in place.

FACILITIES, INCLUDING ENVIRONMENTAL CHECKLIST AND FACILITY MAINTENANCE PLAN

All facilities that are purchased or constructed with federal assistance must follow the federal guidelines for procurement in Circular C4220.1F (as amended). A feasibility study must be completed for all facility projects, whether they are funded through the Section 5311 program or the Section 5339 Capital Program.

A feasibility study will evaluate the project cost effectiveness and its effect on the environment, including noise, water quality, impacts on wetlands, flooding, navigable waters, endangered species and ecologically sensitive areas.

All new construction or rehabilitation of an existing structure must meet requirements for local land use planning and zoning, relocation, traffic and parking, energy conservation, consideration of historic properties and will place an emphasis on safety and security. All facilities must be constructed to meet current ADA accessibility requirements.

Transit Facility Process:

- Subrecipients contact NDDOT to determine if federal funding is available for transit facility projects;
- If funding is available, the system determines the type of facility needs, based on feasibility study in environmental process;
- Once type of facility needs is determined, the system needs to determine whether to build (new building) or rehab (existing building), again based on feasibility study in environmental process;
- Prior to being able to include a facility project in a Federal Transit Administration (FTA) grant, there is an environmental process including a feasibility study that needs to be completed. The system must complete that process and receive an environmental clearance (Documented Categorical Exclusion, or DCE) from FTA. Typically during this process, FTA makes a visit to the proposed facility location;
- The amount of federal dollars being requested must be included with this request;
- NDDOT will assign the project number for the facility project and include it in a Statewide Transportation Improvement Program (STIP) or STIP revision;
- Once the environmental process has been completed and FTA issues the DCE or other environmental clearance, NDDOT can submit a grant to FTA requesting federal funding or an

existing grant can be amended to request federal funding for the project. Once the grant or grant amendment has been approved, the system can proceed with the project;

- The system then proceeds with RFP's and bids for architectural and engineering services and construction/rehab.

FINANCIAL MANAGEMENT

The NDDOT transit section is responsible for managing grants, contracts and interagency agreements to ensure that expenditures comply with federal rules and regulations for all FTA grant programs.

Financial management responsibilities include:

- Investigating and resolving accounting problems to ensure compliance with state and federal rules;
- Managing the documentation entered into NDDOT's transit database relative to individual grants, contracts and interagency agreements;
- Submitting Milestone reports in TEAM/TRAMS;
- Rectifying and closing out FTA grants when projects are complete.

The NDDOT Finance Division is responsible for submitting federal financial reports in TEAM/TRAMS and manages the ECHO process between FTA and NDDOT. This is done so that transactions are processed in a timely manner and the accounts are balanced and well documented. The Finance Division is also responsible for receipt of FTA funds, for processing claims for payment (to reimburse subrecipients for expenses), for initiating grant draw downs and for disbursing funds to subrecipients. Most of these tasks are performed with the transit section.

The NDDOT Audit Division may conduct and perform audits on all Sections 5310, 5311 and 5339 subrecipients.

Subrecipients expending more than \$500,000 in a fiscal year from ALL federal sources must file an A-133 audit. All other agencies will be asked to provide a financial statement audit or a financial report, i.e. such as submitted to their governing board or internal auditor on a yearly basis.

The NDDOT provides technical assistance to its subrecipients on an as, "needed basis" to ensure that they comply with federal and state financial management requirements.

NDDOT does a random pull of subrecipients using an online generator to pick the appropriate number of subrecipients to provide receipts for one quarter's claim for payment. This random generator will pull each subrecipient to provide receipts once in a fiscal year. If a subrecipient is not drawn for providing receipts in the quarter transit staff visits their agency, the transit staff will review two+/- various line item requests from a past quarterly reimbursement. Receipts must match what the subrecipients requested on that reimbursement. When an error is detected by the transit staff, a full quarterly review of receipts may be conducted. If major errors are detected, NDDOT reserves the right to require receipt documentation for additional quarters. Billing adjustments may occur.

The transit staff will also verify all sources of local match. This will ensure the agency is giving NDDOT accurate information. The transit staff will verify close out procedures on grants when the final drawdown has been processed. The process will look at local match and earmark money to make sure it balances.

UNEXPENDED GRANT FUNDS

In general, any Section 5311 and/or State Aid funds not expended by the local transit agency recipients during the current state fiscal year (July 1 to June 30) will revert to the respective grant program fund. Section 5311 funds are reallocated as needs arise during the next state fiscal year. Appropriate revisions are made to the annual Program of Projects and budget revisions are made to the POP to balance with the budget in TEAM/TRAMS as needed for submission to FTA Region VIII.

State Aid funds revert to the State Aid for Public Transportation fund and, at the DOT Director's discretion, can be funded for state coordination or to subrecipients that have used all their current state aid funding in the previous year's disbursement and meet state and federal compliance standards.

Unexpended grant funds from Sections 5339, 5310 and/or programs that occur when a transit agency fails to implement a project or make a requested purchase require a written request for additional time before the contract expiration date and it must state the reason for requesting the action. If the contract period ends, without written request, the funds are forfeited. If the request is for additional time, the NDDOT may accept or deny the request depending on the reason provided. Once a transit agency has relinquished funds, the NDDOT is free to reallocate the funds for another purpose.

Any grant funding remaining after a transit agency has fully completed implementation of a funded project or capital purchase, automatically reverts to the grant program for reallocation.

COST ALLOCATION PLANS

Each transit provider that is a multi-service provider or a larger agency will be required to provide NDDOT- Transit Section with a cost allocation plan. When the plan is received by the Transit Section it will be reviewed by staff and forwarded to NDDOT audit division for review. The transit provider will receive a formal letter from the Transit Section approving or rejecting the cost allocation plan and may include recommendations that would strengthen the transit provider plan.

ACCOUNTING SYSTEMS, AUDIT AND CLOSEOUT

The Transit Fiscal plans is based on the Accrual Basis of Accounting, the accounting method where income is recognized when earned instead of when received and expenses are recognized when incurred instead of when paid.

All recipients shall comply with the single Audit Act Amendments of 1996 and OMB Circular A-133. Each recipient must submit a copy of an annual audit or an annual financial statement review to NDDOT each year or thirty days after completion of the OMB Circular A-133 Audit or financial statement review.

Grant projects are closed at the end of the contract period. NDDOT staff will determine at what point a project is ready to close. When a capital project has reached the end of the contract period and there is a balance of funds, those funds will be forfeited. In some instances capital contracts may be extended. If a capital project is not expected to be complete when the contract period ends, the subrecipient may request an extension in writing prior to the termination of the contract period.

PROCUREMENT

All grant agreements require subrecipients to:

- Comply with all relevant federal and state procurement laws and regulations;
- Submit all third party contracts to NDDOT for review.

NDDOT and 5310, 5311 and 5339 subrecipients must comply with all federal and state laws, ordinances, regulations and policies regarding procurement. Subrecipients that are public entities will follow the requirements that apply to states, called the Common Rule (CFR Part 18), plus will comply with the following requirements:

- Follow the appropriate procurement requirements: For public agencies, comply with the Common Rule (CFR Part 18), plus five basic federal requirements for procurements defined by FTA C 4220.1F 3. For private nonprofits, comply with the provisions of FTA C 4220.1F and 49 CFR Part 19;
- Provide for full and open competition;
- Exclude the use of in-state or local geographic preference;
- Do not enter into any contract for rolling stock with a period of performance exceeding five years, exclusive of options without FTA approval;
- Contracts executed using federal funds includes all clauses required by statutes, executive orders and implementing regulations; and
- Use competitive procurement procedures based on the Brooks Act when contracting for architectural and engineering services if the state has not adopted a statute governing procurement of such services.

Circular 4220.1F applies to all subrecipients that are nonprofit agencies and that contract with outside sources under FTA assistance programs.

Additional requirements for the state and all subrecipients include:

- Have a Cost Analysis;
- Have written selection procedures;
- Use the appropriated method of procurement;
- Make awards only to responsible contractors who will perform the project under the defined terms and conditions;
- System for Award Management (SAM) - Prior to award of any contract \$25,000 and over, the subrecipient must identify if the contractor/vendor is debarred or suspended from participation in federally assisted transactions or procurements. A screen print with the results of the search MUST be included in the procurement file kept in the subrecipients office and a copy MUST be submitted to the Transit Section for approval prior to award of contract. To begin the search visit www.sams.gov ;
- Use competitive selection processes;
- Conduct and document an Independent Cost Estimate for each procurement;
- Develop written procurement policies and procedures, including a process for handling protests regarding procurements;
- Include all federally-required certifications, assurances and clauses for procurements as appropriate to the type of purchase and price;
- Contract will have sufficient provisions to ensure a complete agreement. Provisions will include a description of the use of the funds; a beginning and end date; termination and suspension clauses; other applicable requirements pertaining to the type of funds and purpose of project; and sanctions for failure to comply with the requirements of the agreement, including and not limited to, withholding and repayment of funds for cause. All contracts shall include a clause allowing for inspection of records and projects;
- Maintain a complete record of procurement history.
- All subrecipients must follow State of North Dakota laws, regulations and procedures regarding procurements thresholds (dollar amounts) unless federal requirements are more restrictive when federal requirements would apply.
 - Up to \$2,500 – use adequate procedures to ensure the price is fair and reasonable (1 quote)
 - \$2,501 - \$25,000 – obtain a minimum of 3 informal bids or proposals
 - \$25,001 and over – you must solicit formal sealed bids or proposals
- If subrecipients would like technical assistance, including review of RFP's prior to advertising, they may request help.

NDDOT Responsibilities:

- Comply with state and federal procurement requirements;
- Include in grant agreements all federally-required certifications, assurances and clauses for procurements as appropriate to the type of purchase and price;
- Review subrecipient procurement procedures and spot check procurements during compliance reviews and review the System for Award Management (SAM) procedures;
- Provide technical assistance in the preparation of requests for proposals, vehicle and construction specifications, bid documents, subcontracts, review System for Award Management (SAM) results prior to award of any contract \$25,000 and over.
- Respond within 30 days of request.

To assist local grant projects in vehicle procurement, the NDDOT provides specifications for the subrecipient to use in purchasing vehicles and equipment funded with FTA or State Aid grant funds. The NDDOT provides technical assistance, reviews and approves the final bid specifications. They also oversee the procurement process in order to ensure compliance with state and federal procurement regulations. NDDOT has incorporated an instruction sheet along with a checklist that has the required documentation.

The NDDOT as needed will procure vehicles on a State Bid Contract complying with all the applicable requirements. The subrecipient must submit a written request to the Transit Section requesting approval to contact a vendor and order a vehicle. The State Bid Contracts are all listed on the ND Procurement Office website at:

<https://apps.nd.gov/csd/spo/services/bidder/listCurrentContracts.htm>

All procurement of vehicles, other than unmodified vans, purchased with FTA funds through the NDDOT, will comply with applicable requirements of 49 U.S.C. 323(m) and FTA regulations that pertain to Pre-Award and Post Delivery Audits of rolling stock purchases set forth in 49 CFR Part 663 including any later revisions.

“One dollar “contaminates” all” rule: When federal funds are used to maintain or improve a property, FTA automatically retains 80% of the value. If you use FTA funds to maintain a city building, FTA gains 80% ownership. If you use FTA funds to add a ramp to a city building, FTA gains 80% ownership.

Facilities

The NDDOT will approve funding to construct new or alter current facilities to be used in providing public transportation services. These facilities must meet the appropriate accessibility requirements under ADA standards 49 CFR Part 37. In addition the NDDOT Transit Section will approve all procurement documents, DBE Special Provisions, FTA clauses and documents included in the procurement.

Sole Source

In rural areas of North Dakota and in the case of certain specialized transit equipment, transit agencies are not always able to obtain competitive quotes. In cases where a single source is all that is available, the transit agency director must submit a letter or email to the NDDOT that documents all efforts made to obtain competitive quotes or, in cases where the sole source is apparent, provide rationale that validates the use of the sole source.

NDDOT review and notice to proceed is required for all cases where purchase from a sole source is requested. Omission of information, provision of false information, or other intentional inaccuracies designed to allow purchase from a preferred vendor while bypassing the competitive purchase process is grounds for the NDDOT to cease distribution of federal and state grant funding.

PROCUREMENT PROTEST PROCEDURES

The NDDOT encourages local transportation providers to have their own transit procurement protest procedures for resolving procurement disputes at the local level.

FTA's policy is not to consider grievances, complaints, protests or appeals until after settlement attempts have been submitted through local and state dispute resolution processes. According to FTA Circular C 4220.1F Bid Protest, FTA will only review protests regarding the alleged failure of the grantee (state or local grant recipient) to have written protest procedures or alleged failure to follow such procedures. Alleged violations on other grounds are under the jurisdiction of the state or local administrative or judicial authorities.

The FTA Disputes Clause is included by reference in all bid specification packages. The full text of the clause is available upon request (as noted in the bid specification packages) and it is also available to view online or download from the NDDOT website.

Subrecipients Responsibilities:

- 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;
- 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 subrecipients' specifications. The transit provider must complete the post-delivery audits before they accept the vehicles and pay the vendor;
- Submit all documentation and certifications to NDDOT. Documentation must be received by

- the Transit Section at DOT prior to final payment to the grantee;
- Contact the Transit Section for technical assistance if needed.

Reimbursement for capital items will not be made until all required documentation is submitted to NDDOT Transit Section and has been reviewed and approved by staff.

LOCAL COORDINATION AND PUBLIC INPUT

NDDOT suggests public involvement in conformance with federal regulations. Long-range and statewide planning associated with the development of the STIP is managed by the Programming Division. The Transit Section submits program and funding information to the Programming Division for inclusion in the STIP.

When public involvement is needed it will be proactive and provide complete information, timely public notice, full public access to key decisions and opportunities for early and continuing involvement.

NDDOT actively encourages agencies who are, or who represent, minorities; people with low income; and people with limited English proficiency to participate.

PRIVATE SECTION PARTICIPATION

It is the Department's policy when a newly proposed transportation service (or substantially altered service) is planned for an area that is presently served by an operator, the private operator will be contacted and encouraged to participate in providing the new service under a service agreement with the sponsoring non-profit transit agency or the government agency in the county or area that is a current grant recipient.

In the event of two existing providers, one private for-profit and one nonprofit organization; the private for-profit operator will be encouraged to participate in providing the new transportation service that is being proposed. In all cases, reasonable efforts will be made to minimize the adverse effects that government subsidized transportation projects may have on private transit operations.

In keeping with FTA's continued emphasis on participation of private, for-profit transportation providers in the planning and delivery of federally funded transit services (privatization), the NDDOT encourages joint participation with transit services. Coordination and consolidation in the state is requested if new eligible providers/applicants request funds. Before new funds are approved the new service must be administered through the existing funded subrecipient.

Section 5311

Private operators, both for-profit and non-profit, are involved in public transit in several ways:

- When a subrecipient chooses to engage a third party operator to provide public transit service there is full and open competition. The qualified private bidder is chosen and a contract is executed;
- Private operators are able to participate on local transit advisory committees;
- The private sector is encouraged to participate on other NDDOT efforts (e.g., statewide plans, local transit development plans and technical assistance to subrecipients).

Section 5310

FTA requires that applicants afford private, for-profit, transit and paratransit operators a fair and timely opportunity to participate to the maximum extent feasible in the planning and provision of proposed transportation services. Accordingly, each applicant for Section 5310 funds must comply with this policy and document such efforts in its application.

The NDDOT will publish a notice in the major newspapers serving the state and proposed service area, describing the project and soliciting interest from private parties to provide the service. The notice must provide 30 days for response and provide a publisher affidavit with its grant package for review to FTA. Further, Section 5310 applicants must send notification letters to all known transportation providers in their area and provide at least ten days for response. If public hearings are held they must take place in an accessible location.

Non-profit corporations are eligible applicants under 5310. All eligible applicants are invited to apply for Section 5310 funds and awards are made based on fair evaluation of project merits. Potential applicants are informed of program solicitations through both email notifications to past and current awardees and website postings.

Lists of private transportation providers are used to inform public agencies and non-profit organizations about the statewide coordination planning process.

PERSON WITH DISABILITY INPUT (SECTION 504/ADA)

The annual Federal Certification and Assurances for FTA Assistance, which is signed by all subrecipients, contains the ADA certification. City of Minot Busing is the only Section 5311 subrecipient operating fixed route and contracting for complementary paratransit service. Their

respective paratransit plans are reviewed by NDDOT Transit Staff to conform to 49 CFR Part 37 Subpart F.

CIVIL RIGHTS REQUIREMENTS

TITLE VI

NDDOT annually signs the FTA Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements, which binds NDDOT to all civil rights requirements.

NDDOT prepares a Transit Title VI Program Report, for submission to the FTA every three years. This report is approved by the NDDOT Director. The elements of the program are determined by FTA Circular 4702.1B and include, but are limited to:

- A copy of NDDOT Title VI notice to the public that indicated that NDDOT complies with Title VI and informs members of the public of the protections against discrimination afforded to them by Title VI as well as a list of the locations where the notice is posted;
- A copy of NDDOT instructions to the public regarding how to file a Title VI discrimination complaint, including a copy of the complaint form;
- A list of any public transportation-related Title VI investigations, complaints, or lawsuits filed with the NDDOT since the time of the last Title VI Program submission;
- A public participation plan that includes an outreach plan to engage minority and limited English proficient populations, as well as a summary of outreach efforts made since the last Title VI program submission;
- A copy of the NDDOT's plan for providing language assistance to persons with limited English proficiency (LEP), based on the U.S. Department of Transportation's LEP guidance;
- A narrative or description of efforts that NDDOT, as the primary recipient, used to ensure subrecipients are complying with Title VI, as well as a schedule of subrecipient Title VI program submissions.

Program Administration

NDDOT maintains the following:

- A record of funding requests received from private non-profit organizations, state or local governmental authorities and Native American tribes. The record shall identify those applicants that would use grant program funds to provide assistance to predominantly minority populations. The record shall also indicate which applications were rejected and accepted for funding;

- Description of NDDOT’s criteria for selecting entities to participate in an FTA grant program, which are found in current grant applications. This description shall emphasize the method used to ensure the equitable distribution of funds to subrecipients that serve predominantly minority populations, including Native American tribes, where present.

Subrecipients

Through annual grant agreements, subrecipients agree to comply with all applicable civil rights statutes and regulations. These include Title VI of the Civil Rights Act, Equal Employment Opportunity and Americans with Disabilities Act. Section 5310, 5311 and 5339 subrecipients annually sign FTA’s Certifications and Assurances in their grant agreements with the State. Section 5310, 5311 and 5339 subrecipients must submit their Title VI programs to NDDOT. NDDOT will develop a schedule that outlines the frequency with which subrecipients must submit their Title VI programs. A subrecipients Title VI program must be approved by the subrecipient’s appropriate governing entity or official responsible for policy decision body (e.g., board of directors, mayor, tribal executive, city administrator, etc.). Subrecipients must submit a copy of the board resolution, meeting minutes or similar documentation as evidence of approval. The contents of the subrecipients’ Title VI program are also determined by FTA Circular 4702.1B. It includes all of the following elements:

- A copy of the Title VI notice to the public that indicates the subrecipient complies with Title VI and informs members of the public of the protections against discrimination afforded to them by Title VI as well as a list of the locations where the notice is posted;
- A copy of instructions to the public regarding how to file a Title VI discrimination complaint, including a copy of the complaint form;
- A list of any public transportation-related Title VI investigations, complaints, or lawsuits filed with the NDDOT since the time of the last Title VI Program submission;
- A public participation plan that includes an outreach plan to engage minority and limited English proficient populations, as well as a summary of outreach efforts made since the last Title VI program submission;
- A copy of the NDDOT’s plan for providing language assistance to persons with limited English proficiency (LEP), based on the U.S. Department of Transportation’s LEP guidance;
- Subrecipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar bodies, must provide a table depicting the racial breakdown of the membership of those committees and a description of efforts made to encourage the participation of minorities on such committees or councils;
- Additional information is required depending on whether or not the subrecipient is a fixed route transit provider or has received funding to construct a facility.

NDDOT Oversight

NDDOT transit section oversees subrecipient compliance with Title VI as follows:

- Grant Agreements – Through annual grant agreements, subrecipient agrees to comply with applicable civil rights statutes and regulations, including, Title VI of the Civil Rights Act, Equal Employment Opportunity (EEO) and Disadvantaged Business Enterprise (DBE). The annual Federal Certifications and Assurances for Federal Transit Administration Assistance signed by all subrecipients contain the Title VI, EEO and DBE certification;
- Review of Subrecipients Title VI Program – NDDOT reviews the contents of Title VI programs materials as submitted by subrecipients, including public notification language, LEP, complaint procedures and complaint forms and public participation and outreach. NDDOT provides sample materials and technical assistance to subrecipients in developing a compliant Title VI program;
- Investigation/Monitoring of Title VI Complaints – (or potential complaints and/or lawsuits) – As part of their annual applications, NDDOT requires subrecipients to report on any Title VI complaints or lawsuits. Subrecipients may contact NDDOT at any time during the year to report Title VI complaints, potential complaints and/or lawsuits. NDDOT may also receive complaints regarding subrecipients or their contractors directly from the public. When a complaint is deemed a civil rights issue, NDDOT transit staff will consult with the NDDOT Title VI Coordinator as appropriate;
- Review of Service Standards for Fixed Route Systems and Equity Analysis – NDDOT reviews the service standards for fixed route systems. In addition, in the case of the construction of a transit facility, NDDOT will review the equity analysis;
- Annual Application/On-Site Compliance Visit – During the compliance reviews or the application review, NDDOT staff will verify the physical location of the public notification language (and/or web site, promotional materials, etc.) as stated in the subrecipients Title VI program. During this time, NDDOT also discusses with the subrecipient any new or potential opportunities for public participation and public outreach that may present themselves since the previous submission of the sub recipient's Title VI program. Many transit systems have transportation advisory committees consisting of seniors, persons with disability, general users and organizations that work with people who are transit depended. County boards, village, town and city councils also address transit issues.

NDDOT assists subrecipients with compliance as follows:

- NDDOT provides sample notification language, sample Title VI compliant form and sample Title VI complaint procedures to subrecipients;
- NDDOT helps provide demographic data to assist subrecipients in conducting their four-factor analysis and subsequently developing their LEP plan.

Contractors and subcontractors are not required to submit a Title VI report. However, they are responsible for complying with the Title VI program of the recipient with whom they are contracting. Recipients and subrecipients are responsible for ensuring that their contractors are complying with their Title VI program and Title VI regulations.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

The objective of the US Department of Transportation's (DOT) DBE regulations, as specified in 49 CFR Part 26, are to,

- Ensure nondiscrimination in the award and the administration of DOT-assisted contracts in the Department's transit financial assistance program;
- Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- Ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
- Ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- Help remove barriers to the participation of DBEs in DOT-assisted contracts;
- Assist the development of firms that can compete successfully in the marketplace outside the DBE program;
- Provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs.

A DBE is defined by 49 CFR Part 26 as a for-profit business that is at least 51 percent owned by one or more individuals who are in a group that is considered to be socially and economically disadvantaged and whose management and daily operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

The NDDOT Civil Rights Division (CRD) has the primary responsibility to administer the DBE program for NDDOT. This includes the development of the department-wide DBE Program Plan and formulation and distribution of the DBE Policy. In addition, the CRD works with the Transit Section to develop the FTA tri-annual goal.

NDDOT Transit Section regularly receives FTA funds which generate in excess of \$250,000 in contracting opportunities in a federal fiscal year. This obligates NDDOT Transit Section to develop and submit transit-specific overall three-year agency goals to FTA. NDDOT Transit assists NDDOT CRD in the administration of the program of FTA funded projects. The primary activities conducted by NDDOT Transit staff include assistance with transit goal setting and contract monitoring and reporting.

NDDOT Transit staff work closely with subrecipients in addressing DBE requirements. In goal setting, three-year goals are established based on anticipated FTA contracting opportunities by both subrecipients and NDDOT Transit. Contract-specific goals may also be established and require a

greater amount of subrecipient technical assistance from NDDOT Transit Section. Work with subrecipients also includes the ongoing collection of data for contract monitoring and reporting on FTA funded contracts.

NDDOT Transit Section completes a non-discrimination assurance for DBE with each FTA grant application. As with other civil rights areas, subrecipients agree to comply with all applicable civil rights statutes and regulations in annual grant agreements. Section 5310, 5311 and 5339 subrecipients annually sign FTA's Certifications and Assurances in their grant agreements with the state. In addition, each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) includes a similar assurance of non-discrimination.

During compliance reviews, subrecipients are asked to identify potential contracting opportunities. NDDOT Transit staff work with subrecipients to identify potential DBE participation for those contracting opportunities. NDDOT Transit staff also ensures that subrecipients use appropriate DBE contract language in their solicitations. DOT's Civil Rights Division provides assistance to potential DBEs to become certified and maintains the Unified Certification Program Directory.

The Section 5311 quarterly reimbursement request includes a form for transit agencies to list DBE expenditures made during the quarter. The information listed on this form is collected by the NDDOT to use in its annual DBE goal setting process. This form may be revised as Transit related DBEs are added or removed from the list of certified companies. This list is managed by the CRD of the NDDOT.

Uniform Report of DBE Commitments/Awards and Payments

The Uniform Report of DBE Commitments/Awards and Payments report must be submitted in TEAM-Web DBE Reporting Module on December 1 and June 30 of every year. The information is collected from each transit agency on a quarterly basis. The transit agency must list all expenditures they made to a DBE during that quarter. The Transit Section tracks the contract and payment data for the reporting period in the NDDOT's Contract Management software.

EQUAL EMPLOYMENT OPPORTUNITY

The state must ensure that no person in the United States shall on the grounds of race, color, religion, national origin, sex, age, or disability be excluded from participating in, or denied the benefits, or be subject to discrimination in employment under any project, program, or activity receiving Federal financial assistance under the Federal transit law. The NDDOT EEO program is administered by NDDOT CRD who also maintains the EEO program plan.

Since NDDOT does not operate a mass transit system or meet the threshold or employ 50 or more transit related employees, it is not required to submit an EEO Program Plan to FTA.

Currently, none of NDDOT's 5310, 5311 and 5339 subrecipients receive capital or operating assistance in excess of \$1 million or planning assistance greater than \$250,000 and also employ 50 or more transit related employees.

Section 5307 NDDOT subrecipients who are also direct recipients of FTA funding (i.e., urban bus systems) that receive capital or operating assistance in excess of \$1 million or planning assistance greater than \$250,000 and also employ 50 or more transit related employees submit their EEO plans directly to FTA for review and approval.

NDDOT annually signs the FTA List of Certifications and Assurances for FTA grants and cooperative agreements, which binds NDDOT to EEO regulations.

Subrecipient Oversight

Subrecipients sign and return, as part of their application for federally-assisted funding, the current nondiscrimination assurance form(s) provided as part of their application or contacting materials. If the form is not currently on file at NDDOT, the subrecipient shall, upon request, sign and return such a form on a timely basis. Subrecipients shall also maintain a copy of this form in their civil rights file kept at their place of business that will be available for inspection.

Each contract between NDDOT and subrecipients for the provision of FTA funding shall contain language that requires the subrecipient to comply with FTA regulations related to EEO. In addition, private providers under contract with a subrecipient are required to comply with these regulations.

The only NDDOT subrecipients that meet or exceed the receive capital and operating threshold for assistance above are 5311 subrecipients. As part of annual application review of 5311 applicants, NDDOT reviews the list of transit employees of each applicant by job type including a total number of transit-related employees. Currently none of NDDOT's current subrecipients have more than 50 transit-related employees. If upon this annual review, the number of transit related staff reached 50 or more and the dollar threshold for capital, operating or planning assistance was met, NDDOT would require the subrecipient to submit a formal EEO program to NDDOT for review and approval. NDDOT would withhold the approval of future grants until such time as it receives the required EEO plan form the subrecipient. The Equal Employment Opportunity Act by definition explicitly exempts Native American tribes from its provisions.

LOBBYING

Subrecipients that submit, or intend to submit, an application for Federal assistance exceeding \$100,000 must provide the following certification.

- As required by U.S. DOT regulations, "New Restrictions on Lobbying, " at 49 CFR 20.110, Applicant's authorized representative certifies to the best of his or her knowledge and belief that for each application for a Federal assistance exceeding \$100,000: (1) No Federal appropriated funds have been or will be paid, by or on behalf of the Applicant, to any person

for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress pertaining to the award of any Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; and (2) if any funds other than Federal appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application to FTA for Federal assistance, the Applicant assures that it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," including the information required by the form's instructions, which may be amended to omit such information as permitted by 31 U.S.C. 1352;

- The Applicant understands that this certification is a material representation of fact upon which reliance is placed and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. The Applicant also understands that any person who fails to file a required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CHARTER

49 CFR Part 604 (applies to all programs) places limits on the charter services that Federally-funded public transportation operators may provide. (FTA C 9040.1G page XI-1(2))

http://www.fta.dot.gov/documents/FTA_C_9040.1F.pdf

The annual Federal Certification and Assurances for FTA assistance signed by all subrecipients contains the charter certification. NDDOT assists subrecipients with use of the FTA charter registration web site as requested. NDDOT transit staff verifies compliance with charter regulations while conducting annual compliance reviews and receiving quarterly reports of charter service.

"Charter service" means, (but does not include demand response service to individuals):

- Transportation provided by a recipient at the request of a third party for the exclusive use of a bus or van for a negotiated price. The following features may be characteristic of charter service:
 - A third party pays the transit provider a negotiated price for the group;
 - Any fares charged to members of the group are collected by a third party;
 - The service is not part of the transit provider's regularly scheduled service, or is offered for a limited period of time; or
 - A third party determines the origin and destination of the trip as well as scheduling; or
- Transportation provided by a recipient to the public for events or functions that occur on an irregular basis or for a limited duration and:
 - A premium fare is charged that is greater than the usual or customary fixed route fare;
 - The service is paid for in whole or in part by a third party.

There are charter service exemptions that allow recipients to provide community-based charter services under these limited exceptions:

- Government officials on official government business;
- Qualified Human Service Organizations (QHSO);
- Leasing FTA funded equipment and drivers;
- When no registered charter provider responds to notice from a recipient;
- Agreement with registered charter provider, petition to administrator.

If one or more of these exceptions are performed by any of our subrecipients you must report the charter service to NDDOT and FTA through TEAM/TRAMS. There is a spreadsheet available to assist when reporting charter service that can be found on the NDDOT website.

Charter service may be offered when the following conditions are met:

- Charter service is any of the 5 exemptions listed above; or attain the list of eligible charter providers from <http://www.fta.dot.gov/charterregistration.com>;
- Advertise to everyone off the email list from the FTA's website and email bhanson@nd.gov at least 60 days prior to the trip;
- If no response is received back from any willing or able charter provider the service can be provided;
- Expenses related to the trip are paid for by independent funds. FTA must not be billed for charter related expenses.

SCHOOL TRANSPORTATION (FTA C 9040.1G)

Section 5323(f) prohibits the use of FTA funds for exclusive school bus transportation for school students and school personnel. Regulation, 49 CFR Part 605 does permit regular service to be modified to accommodate school students along with the general public and does apply to all programs.

NDDOT oversees compliance with the prohibition by monitoring route schedules submitted with application materials, web sites and/or promotional materials with route schedules. Further, during vehicle inspections and compliance reviews, Transit Staff look for signs and discuss indications that exclusive school bus service has been offered (e.g., School route only).

DRUG AND ALCOHOL PROGRAM COMPLIANCE

FTA requires the testing of employees performing safety sensitive functions as defined in 49 CFR 655.4. The following six types of testing are required: pre-employment, random, post-accident, return to duty, reasonable suspicion testing and follow-up. All subrecipients test for marijuana, cocaine, opiates, phencyclidine, amphetamines and alcohol. Currently, testing is required at a minimum rate of 25 percent of the safety sensitive pool for drugs and 10 percent for alcohol.

Subrecipients that receive Section 5311 funds are required to have a drug and alcohol testing program for safety-sensitive employees.

Subrecipients that receive only Section 5310 are not subject to FTA's drug and alcohol testing rules, but must comply with the Federal Motor Carrier Safety Administration (FMCSA) rule for employees who hold commercial driver's license (49 CFR Part 382).

Subrecipients that also receive funding from one of the covered FTA programs (i.e., Section 5311) should include any safety sensitive employees funded under Section 5310 projects in their testing program.

Program Oversight

NDDOT annually signs FTA Annual List of Certifications and Assurances for FTA grants and cooperative agreements which binds NDDOT to all drug and alcohol regulations per 49 CFR Part 655.

NDDOT requires that all subrecipients must formally adopt a substance abuse policy. A signed and dated copy of the adoption must be a part of the transit system's file, noting drug and alcohol program compliance. NDDOT oversight is ensured through monitoring of reports. The reports require compliance based on elements mandated by US DOT and FTA drug and alcohol regulations.

Failure to comply with a drug and alcohol policy by a subrecipient could find their transit agency non-compliant with federal regulation and may result in suspension of federal transit funding.

Subrecipient Oversight

With each application for FTA funding for transit services assistance, subrecipients are required to certify that their proposed service will comply with regulations regarding 49 CFR Part 655, Prevention of Alcohol Misuse and Prohibited Drug use in Transit Operations.

Each contract between NDDOT and subrecipient for the provision of FTA funding shall contain language that requires the subrecipient to comply with FTA regulations related to drug and alcohol testing. In addition, private providers under contract with subrecipients are required to comply with these regulations.

NDDOT reviews and approves the written drug and alcohol policy of subrecipients operating transit service. Each policy details the procedures and provisions of a drug and alcohol testing program. At a

minimum, all policies will include the policy content requirements of 49 CFR Part 655 Subpart E. NDDOT's drug and alcohol consultant will review these policies.

Reporting

Drug and Alcohol Management Information System Report: The submittal of annual FTA Drug and Alcohol Management Information System (DAMIS) reports is a requirement of acceptance of FTA grant funding. MIS reports are filed electronically by March 15th of each year through FTA Drug and Alcohol Management System (DAMIS) reporting system administered by the MIS Project Office at the Volpe National Transportation Systems Center.

NDDOT requires mandatory training courses for subrecipients and their employees. The required training is a minimum of one time 60 minutes of driving training and 2 hours of supervisor training (reasonable suspension).

SUBRECIPIENT MONITORING

NDDOT Transit Section uses the annual applications, budget review cycle and compliance review as a basis for monitoring financial and operational performance. Proposed changes from the previous year, for example, change of service hours or routes, should be brought to the attention of the transit program manager. NDDOT Transit approves all annual estimated budgets.

Subrecipient monitoring and reporting requirements

Subrecipient monitoring is an ongoing process undertaken by NDDOT Transit staff. Subrecipients are required to report expenses, revenues and operating via quarterly reports. Requested data includes:

- Expenses;
- Revenues;
- Number of passenger trips;
- Number of miles;
- Number of hours;
- Fuel consumption.

The agency directors use the information contained in the quarterly reports to monitor subrecipients' fiscal and operational activities. Requests for reimbursement are approved by the NDDOT Transit program managers before payment can be processed.

STATE PROGRAM MANAGEMENT/ DESIGNATED RECIPIENT PROGRAM MANAGEMENT

NDDOT is the designated recipient for all FTA funding.

PROGRAM MEASURES

Section 5310

NDDOT uses subrecipients applications (including budgets), quarterly and annual reports to monitor and evaluate performance. Quarterly reports quantify – on a vehicle specific basis – one way trips provided by passenger type, expenses, trip miles and service time. Annual reports indicate – on a fleet aggregated basis, number of one-way trips, number of eligible riders in the awardees service area and county(s) served.

The federal program year is October 1st-September 31. Reports are due October 15.

The two measures established for the Section 5310 (per FTA C 9070.1G page II-2), program are:

- Gaps in Service Filled. Provisions of transportation options that would not otherwise be available for the elderly persons and persons with disabilities. Measured in numbers of the elderly persons and persons with disabilities afforded mobility they would not have without program support;
- Ridership. Actual or estimated number of rides (as measured by one way trips) provided annually for persons with disabilities and the elderly persons on Section 5310 – supported vehicles and services and number of rides provided during the lifetime of all 5310 vehicles currently in service.

Program managers use these reports to perform operational management over subrecipients and to satisfy federal reporting requirements.

Program managers schedule compliance reviews with subrecipients on an annual basis to review operations and maintenance records. Program managers may request and review records and documentation if the initial review uncovers any concerns or unresolved questions. NDDOT inspector will call and schedule on-site inspections of all FTA funded vehicles and FTA funded facilities. This on-site inspection occurs every other year.

RECORD RETENTION

All documentation relating to federal or state contracts must be retained according to federal and state regulations. This generally means 6 years beyond the close of the contract, or 3 years past the vehicle disposal date, whichever is longest. This includes pre-trip inspection reports. Documentation retention for buildings is 35 years of useful life and permanent retention for documentation of land property.