

authorized. If any opposing comments are timely filed, these findings will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. See 49 CFR 1182.6. If no opposing comments are filed by expiration of the comment period, this notice will take effect automatically and will be the final Board action.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

*It is ordered:*

1. The proposed transaction is approved and authorized, subject to the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective May 27, 2023, unless opposing comments are filed by May 26, 2023. If any comments are filed, Kelsian USA may file a reply by June 13, 2023.

4. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW, Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590.

Decided: April 10, 2023.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

**Stefan Rice,**

*Clearance Clerk.*

[FR Doc. 2023-07919 Filed 4-13-23; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### FTA Fiscal Year 2023 Apportionments, Allocations and Program Information

**AGENCY:** Federal Transit Administration (FTA), Department of Transportation (DOT).

**ACTION:** Notice.

**SUMMARY:** This notice provides priorities for programs in fiscal year (FY) 2023, announces the Consolidated Appropriations Act, 2023, and full-year apportionments and allocations for grant programs, provides contract authority, and describes plans for several competitive programs.

**FOR FURTHER INFORMATION CONTACT:** For general information about this notice, contact John Bodnar, Director of Transit Programs, Office of Program Management, at (202) 366-2053. Please contact the appropriate FTA Regional Office for any specific requests for information or technical assistance. FTA Regional Office contact information is available on FTA's website: <https://www.transit.dot.gov/about/regional-offices/regional-offices>. An FTA headquarters contact for each major program area is included in the discussion of that program in the text of this notice. FTA recommends stakeholders subscribe via: <https://public.govdelivery.com/accounts/USDOTFTA/subscriber/new> to receive email notifications when new information is available.

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. Overview
- II. FY 2023 Funding for FTA Programs
  - A. Funding Available Under the Consolidated Appropriations Act, 2023
  - B. Oversight Takedown
  - C. FY 2023 Formula Apportionments Data and Methodology
- III. FY 2023 Program Highlights and Updates
  - A. Focus Areas
    - 1. Safety—PTASP and Safety Committees
    - 2. Census Urbanized Areas Designations
    - 3. Build America-Buy America Act
    - 4. State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act (Cornyn-Padilla)
  - 5. FTA Strategic Plan
- B. Program Updates
  - 1. FY 2023 Competitive Programs Update
- IV. Program Information
  - A. Metropolitan and Statewide Transportation Planning Program (49 U.S.C. 5303 and 5305(d))
  - B. State Planning and Research Program (49 U.S.C. 5304 and 5305(e))
  - C. Urbanized Area Formula Program (49 U.S.C. 5307)
  - D. Fixed Guideway Capital Investment Grants Program (49 U.S.C. 5309)
  - E. Enhanced Mobility of Seniors and Individuals with Disabilities Program (49 U.S.C. 5310)
  - F. Formula Grants for Rural Areas Program (49 U.S.C. 5311)
  - G. Rural Transportation Assistance Program (49 U.S.C. 5311(b)(3))
  - H. Appalachian Development Public Transportation Assistance Program (49 U.S.C. 5311(c)(2))
  - I. Formula Grants for Public Transportation on Indian Reservations Program (49 U.S.C. 5311(j))
  - J. Public Transportation Innovation (49 U.S.C. 5312)
  - K. Technical Assistance and Workforce Development (49 U.S.C. 5314)
  - L. Public Transportation Emergency Relief Program (49 U.S.C. 5324)
  - M. Public Transportation Safety Program (49 U.S.C. 5329)

- N. State of Good Repair Program (49 U.S.C. 5337)
- O. Grants for Buses and Bus Facilities Program (49 U.S.C. 5339)
- P. Growing States and High-Density States Formula Factors (49 U.S.C. 5340)
- Q. Washington Metropolitan Area Transit Authority Grants
- R. Community Project Funding/Congressionally Directed Spending
- V. FTA Policy and Procedures for FY 2023 Grants
  - A. Automatic Pre-Award Authority To Incur Project Costs
  - B. FY 2023 Annual List of Certifications and Assurances
  - C. Letter of No Prejudice (LONP) Policy
  - D. Civil Rights Requirements
  - E. Consolidated Planning Grants
  - F. Grant Application Procedures

#### I. Overview

This notice provides priorities for the Federal Transit Administration's (FTA) programs in Fiscal Year (FY) 2023, announces the Consolidated Appropriations Act, 2023, Public Law 117-328 and full-year apportionments and allocations for grant programs, provides contract authority, as well as describes plans for several competitive programs.

It also contains information on how FTA plans to administer its transit programs in FY 2023 and how funds appropriated and allocated prior to FY 2023 will be treated.

This notice highlights updates and changes to FTA programs, describes definitional changes and cross-cutting requirements and provides specific information about FTA's statutory programs.

For each FTA program, FTA provides information on the Infrastructure Investment and Jobs Act (IIJA, also called the Bipartisan Infrastructure Law (BIL), Public Law 117-58) authorized funding levels for FY 2023, the basis for apportionment or allocation of funds, requirements specific to the program, period of availability of funds, and other program information. A separate section provides information on pre-award authority and other requirements and guidance applicable to FTA programs and grant administration. Finally, the notice includes references to tables on FTA's website that show amounts apportioned under the FY 2023 appropriations and approximately \$6.6 billion in unobligated or carryover funding available in FY 2023 under certain competitive programs carried out in accordance with prior authorization acts.

Information in this document includes references to existing FTA program guidance and circulars. Some information in guidance and circulars may have been superseded by

provisions in IIJA, but these guidance documents and circulars remain a resource for program management in most areas. FTA intends to revise the guidance and circulars, as appropriate, with an opportunity for public comment when necessary.

## II. FY 2023 Funding for FTA Programs

### A. Funding Available Under the Consolidated Appropriations Act, 2023

A total of \$21,432,364,662 was appropriated for FY 2023 including funding from the Consolidated Appropriations Act, 2023 and advance appropriations.

Division L, title I, of the Consolidated Appropriations Act, 2023, appropriated \$16,968,459,324 for FY 2023, providing the authorized \$13.634 billion from the Mass Transit Account; \$542 million in Transit Infrastructure Grants, including: an additional \$90 million for the Buses and Bus Facilities Competitive grant program, an additional \$50 million for the Low or No Emission Grants program, an additional \$15 million for the Urbanized Area Passenger Ferry program, an additional \$2 million for the Bus Testing program, an additional \$7 million for several research programs, an additional \$17.5 million to the ferry service for rural communities program, and \$360.5 million for Community Project Funding/Congressionally Directed Spending. The Consolidated Appropriations Act, 2023, also appropriated \$7.5 million in additional technical assistance and training funding; \$2.2 billion for the Capital Investment Grant (CIG) program and the Expedited Project Delivery Pilot Program; \$425 million in additional support for New Start and Core Capacity CIG Projects with Existing Full Funding Grant Agreements that met criteria listed in division L, section 165 of the Consolidated Appropriations Act, 2023; and \$150 million for the Washington Metropolitan Area Transit Authority.

Division N, title X of the Consolidated Appropriations Act, 2023, appropriated \$213,905,338 for Public Transportation Emergency Relief for transit systems affected by major declared disasters occurring in calendar years 2017, 2020, 2021, and 2022.

In addition, IIJA provided \$4.25 billion in advance appropriations for FY 2023, including \$1.6 billion for Capital Investment Grants; \$2.05 billion for Transit Infrastructure Grants; \$350 million for the All Stations Accessibility Program; \$50 million for the Electric or Low-Emitting Ferry Program; and \$217.5 million for Ferry Service for Rural Communities.

Current funding availability for each program is identified in section IV of this notice and in table 1 located on FTA's FY 2023 Apportionments web page: <https://www.transit.dot.gov/funding/apportionments/current-apportionments>.

### B. Oversight Takedown

The following oversight takedowns of FTA programs will be applied: 0.5 percent of Metropolitan and Statewide Planning funds, 0.75 percent of Urbanized Area Formula funds, 1 percent of Fixed Guideway Capital Investment Grants funds, 0.5 percent of Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities, 0.5 percent of Formula Grants for Rural Areas, 1 percent of State of Good Repair Formula funds, 0.75 percent for Grants for Buses and Bus Facilities, and 1 percent of Capital and Preventive Maintenance Projects for Washington Metropolitan Area Transit Authority funds. The funds are used to provide necessary oversight activities, such as oversight of the construction of any major capital project receiving Federal transit assistance; to conduct State Safety Oversight, drug and alcohol, civil rights, procurement systems, management, planning certification, and financial reviews and audits, as well as evaluations and analyses of recipient-specific problems and issues; to generally provide technical assistance and correct deficiencies identified in compliance reviews and audits; and to support FTA's administrative expenses.

Additionally, there remains a 2 percent administrative/oversight takedown from each of the advance appropriations provided under Division J, Title VIII of IIJA, except for the Capital Investment Grant takedown, which remains at 1 percent. One-half percent of the 2 percent is to be transferred to the U.S. DOT Office of the Inspector General (OIG).

### C. Formula Apportionment Data and Methodology

#### 1. Apportionment Tables

FTA published apportionment tables on its website for each program that reflect the full-year appropriations less oversight takedowns, as applicable. Tables displaying the funds available to eligible states, tribes, and urbanized areas have been posted to *Fiscal Year 2023 Apportionment Tables (Full Year)*. This website contains a page listing the apportionment and allocation tables for FY 2023, as well as links to prior year formula apportionment notices and tables and the National Transit Database

and Census data used to calculate the FY 2022 apportionments.

### 2. National Transit Database and Census Data Used in the FY 2023 Apportionments

Consistent with past practices, the calculations for sections 5307, 5311, including 5311(j) (Tribal Transit), 5329, 5337, and 5339 programs rely on the most-recent transit service data reported to the National Transit Database (NTD), which at the time of apportionment was the 2021 report year. However, due to the impacts of the COVID-19 pandemic, through this final fiscal year, FTA allowed agencies to use either 2019 NTD data or 2021 NTD data, defaulting to the year with the higher vehicle revenue miles unless instructed otherwise by the reporting agency. In some cases where an apportionment is based on the age of the system, the age is calculated as of September 30, 2022, which was the last day before FY 2023 began. Any recipient or subrecipient of either section 5307 or section 5311 program funds is required to report to the NTD. All FTA grant recipients that own, operate, or manage transit capital assets must report their asset data to the NTD. Additionally, a number of transit operators report to the NTD on a voluntary basis. For the 2021 report year, the NTD includes data from 963 urban reporters, 935 of which reported operating transit service; 313 of these urban reporters also provide service in rural areas. The NTD also includes data from 1,338 rural transit providers. Additionally, 137 Tribes report service to the NTD, with 129 of them reporting exclusively rural service, and 8 operating both rural and urban service.<sup>1</sup> IIJA made a number of changes to NTD reporting requirements. FTA finalized the proposal in a **Federal Register** notice published on March 3, 2023 (88 FR 13497). Some of the changes will take effect beginning in NTD Report Year (RY) 2023 or 2024, which corresponds to an agency's fiscal year, while others will take effect in calendar year (CY) 2023.

The 2010 Census data was used to determine population and population density for sections 5303, 5305, 5307 and 5339 as well as rural population and rural land area for section 5311. The formulas for sections 5307, 5311, and

<sup>1</sup> Tribal reporters operate public transportation in a tribal area and receive or benefit from section 5311 funding under FTA's Tribal Transit Program. In some limited cases, tribal reporters may also receive section 5307 funding, in which case, these tribes may be counted as urban. The 137 tribes noted are those that receive Tribal Transit Program funding and excludes those tribes (if any) that receive section 5307 funding, for consistency with the other counts provided herein.

5311(j) include tiers where funding is allocated on the basis of the number of persons living in poverty, and the section 5310 formula program allocates funding on the basis of the population of older adults and people with disabilities. The Census Bureau no longer publishes decennial census data on persons living in poverty and persons with disabilities. As a result, since FY 2013, FTA has been using the data for these populations available via the Census' American Community Survey (ACS). The NTD and census data that FTA used to calculate the apportionments associated with this notice can be found on FTA's *Formula Apportionments Data web page*: (<https://www.transit.dot.gov/funding/apportionments/formula-apportionments-data>).

The FY 2023 apportionments use data on low-income persons, persons with disabilities, and older adults from the 2016–2020 ACS five-year data set, which was published in December 2021. This data represents the most recent five-year ACS estimates that are available as of October 1 for the year being apportioned. As was the case in prior years, data on low-income persons comes from ACS Table B17024, "Age by Ratio of Income to Poverty in the Last Twelve Months," and data on people with disabilities under 65 years old comes from ACS table S1810, "Disability Characteristics." For the FY 2023 apportionments, FTA is using data on older adults (over 65 years old) from ACS table B01001, "Sex by Age" after determining that the ACS table used in prior fiscal years (ACS table S.0103, "People over 65 in the United States") did not include data for all urbanized areas.

### III. FY 2023 Program Highlights and Updates

#### A. Focus Areas

##### 1. Safety—PTASP and Safety Committees

IJA amended 49 U.S.C. 5329(d) to require a transit agency that receives section 5307 funding and serves a large, urbanized area (an urbanized area with a population of 200,000 or more) to establish a Safety Committee consistent with 49 U.S.C. 5329(d)(5). The transit agency must certify, through their Certifications and Assurances, that the safety committee of the operator approved the Public Transportation Agency Safety Plan (PTASP) or any updates to the Public Transportation Agency Safety Plan prior to approval by the Board of Directors, or Equivalent Authority.

The Safety Committee also is responsible for, at a minimum: (1) identifying and recommending risk-based mitigations or strategies necessary to reduce the likelihood and severity of consequences identified through the agency's safety risk assessment; (2) identifying mitigations or strategies that may be ineffective, inappropriate, or were not implemented as intended; and (3) identifying safety deficiencies for purposes of continuous improvement.

IJA also amended 49 U.S.C. 5329(d)(1)(B) to require a transit agency serving a small, urbanized area (an urbanized area with a population of fewer than 200,000) to review and update its PTASP in cooperation with frontline employee representatives. Transit agencies serving a small urbanized area are required to certify, through their Certifications and Assurances, that their Public Transportation Agency Safety Plan was developed or updated in cooperation with frontline worker representatives prior to approval by the Board of Directors, or Equivalent Authority.

##### 2. Census Urbanized Areas Designations

On December 29, 2022, the Census Bureau announced final urban area designations based on the 2020 Census. FTA program eligibility and funding distribution is determined in part by service provision and demographics in both urban and non-urban areas. The 2020 Census delineations will impact FTA formula apportionments beginning in FY 2024. Eligibility and requirements associated with a Notice of Funding Opportunity (NOFO) published in FY 2023 will be determined using 2010 Census designations. FTA has additional resources and information available on its Census landing page, <https://transit.dot.gov/census>.

##### 3. Build America, Buy America Act

The Infrastructure Investment and Jobs Act (IIJA) includes the Build America, Buy America Act (BABA), Public Law 117–58, division G, title IX, subtitle A, part I, sections 70901 through 70927, which greatly strengthens Made in America standards. Specifically, BABA expands the coverage and application of Buy America preferences in Federal financial assistance programs for infrastructure. BABA requires that no later than May 14, 2022—180 days after the date of enactment—the head of each covered Federal agency shall ensure that "none of the funds made available for a Federal financial assistance program for infrastructure . . . may be obligated for a project unless all of the iron, steel, manufactured products, and

construction materials used in the project are produced in the United States." IJA section 70914(a).

BABA provides that the preferences under section 70914 apply only to the extent that a domestic content procurement preference as described in section 70914 does not already apply to iron, steel, manufactured products, and construction materials. IJA section 70917(a)–(b). This provision allows FTA to continue to implement its existing Buy America regulations and policies for steel and iron, manufactured products, and rolling stock, which meet or exceed the standards required by BABA. One of the new Buy America preferences included under section 70914 of BABA is for construction materials. By May 14, 2022, each covered Federal agency had to ensure that all manufacturing processes for construction materials used in federally assisted infrastructure projects occur in the United States.

On April 18, 2022, OMB issued memorandum M–22–11, "Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure" ("Implementation Guidance"). Under section VIII of the Implementation Guidance, "Preliminary Guidance for Construction Materials," "construction materials" includes: An article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of: Non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall. Implementation Guidance at p. 13–14. The Implementation Guidance also states that "an article, material, or supply should only be classified into one of the following categories: (1) Iron or steel; (2) a manufactured product; or (3) a construction material. For ease of administration, an article, material, or supply should not be considered to fall into multiple categories." *Id.* at p. 6. The Implementation Guidance also explains that "items that consist of two or more of the listed materials that have been combined together through a manufacturing process, and items that include at least one of the listed materials combined with a material that is not listed through a manufacturing process, should be treated as manufactured products, rather than as construction materials." *Id.* at p. 14.

On May 19, 2022, the U.S. Department of Transportation (DOT) issued a general waiver that delayed the effective date of BABA’s domestic preference requirements for construction materials, until November 10, 2022 (87 FR 31931). All FTA grants obligated on or after November 10 have required construction materials produced in the United States.

On January 30, 2023, DOT announced a new, limited waiver of the Buy America requirement for construction materials for certain contracts and solicitations. The waiver is intended to assist project sponsors transitioning to using U.S. manufactured construction materials without delaying delivery of projects in sufficiently advanced stages. The waiver of BABA’s domestic preference for construction materials applies to: (1) Any contract entered into before November 10, 2022; and (2) Any contract entered into on or after November 10, 2022, and before March 10, 2023, if the contract results from a solicitation published prior to May 14, 2022. For contracts executed on or after May 14, 2022, and before March 10, 2023, the waiver does not apply to any construction materials that a contractor or subcontractor takes delivery of on or after October 1, 2024.

This waiver applies only to: (i) DOT awards (including FTA awards) obligated on or after January 30, 2023; and (ii) for awards that are obligated on or after November 10, 2022, but prior to January 30, 2023, to expenditures for construction materials incurred on or

after January 30, 2023. FTA encourages recipients to contact their FTA Regional Office with any questions regarding applicability of this waiver.

4. State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act (Cornyn-Padilla)

Division LL of the Consolidated Appropriations Act, 2023, is the “State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act,” also known as Cornyn-Padilla. The law amends title VI of the Social Security Act (42 U.S.C. 801, *et seq.*), as amended by the Infrastructure Investment and Jobs Act (IIJA), to allow coronavirus relief funds to be used for certain infrastructure projects by State, Territorial, Tribal, metropolitan, city, non-entitlement unit of local government, or county recipients. Among other eligible uses, funds may be used for capital projects eligible under FTA’s Urbanized Area Formula Grants Program (section 5307), Capital Investment Grants Progra (section 5309), Rural Area Formula Grants Program (section 5311), State of Good Repair Grants Program (section 5337), and Bus and Bus Facility Grants Program (section 5339). Funds specifically may be used to meet the non-Federal share requirement for capital investment grants and may be used to repay TIFIA loans.

The law requires the Department of Treasury, in consultation with U.S. DOT, to issue guidance or promulgate a

rule to carry out the transportation section of the bill. FTA encourages recipients to review the Treasury guidance or rule when it becomes available and to contact their FTA Regional Office with any questions.

5. FTA Strategic Plan

FTA recently completed an agency-specific strategic plan, in alignment with the recently completed DOT Strategic Plan for 2021–2026. FTA’s plan sets five strategic goals for the agency:

- Enhance Safety—reduce safety events on the Nation’s transit systems.
- Build Resiliency—renew our transit systems and increase resiliency into the future.
- Increase Sustainability—reduce greenhouse gas emissions and environmental impacts from transit construction and operations.
- Improve Equity—address disparities in access to opportunities and services; and
- Connect Communities—expand high quality transit service to build communities that connect people

B. Program Updates

1. FY 2023 Competitive Program Updates

FTA’s competitive grant programs and the FY 2023 appropriated funding levels are identified in the chart below. FTA selects projects for funding after issuance of a Notice of Funding Opportunity.

| Program/competitive grant title  | Statute 49 U.S.C.                            | FY 2023 funding appropriated | Proposed or actual NOFO publication           | Application due date and comments   |
|--|--|------------------------------|---|---|
| Transit-Oriented Development Planning Pilot Program.   | MAP–21 Section 20005(b), IIJA Section 30009. | \$13,432,051                 | Summer 2023 .....                             | TBA.  |
| Low or No Emission Grants and Grants for Buses & Bus Facilities.                                     | Section 5339(b) and (c) .....                | 1,621,126,602                | January 27, 2023 .....                        | April 13, 2023.   |
| Tribal Transit Grants .....  | Section 5311(c)(1)(A) .....                  | 8,935,753                    | March 28, 2023 .....                          | June 26, 2023.  |
| Passenger Ferry Grants, Electric or Low-Emitting Ferry Program, Ferry Service for Rural Communities. | Sections 5307/5311 .....                     | 307,500,000                  | Spring 2023 (Passenger Ferry and Rural Only). | Part of FY23 Rural Ferry and all FY23 Low-Emitting Ferry selections were announced in January 2023. Approximately \$50M in Passenger Ferry and \$170M in Rural Ferry funding will be made available through NOFO. |
| Innovative Coordinated Access & Mobility.  | Section 5312 .....                           | 9,525,190                    | Fall 2023 .....                               | TBA.  |
| All Station Accessibility Program.   | Sections 5307/5311 .....                     | 343,000,000                  | N/A .....                                     | Project selections announced in December 2022.  |
| Competitive Grants for Rail Vehicle Replacement.   | Section 5337 .....                           | 300,000,000                  | N/A .....                                     | FY22 and FY23 funding announced in the same NOFO on October 12, 2022.   |

**IV. Program Information**

*A. Metropolitan Planning Program (49 U.S.C. 5303, 5305(d), and 5305(f))*

Section 5305(d) and (f) makes available Federal funding to support a cooperative, continuous, and comprehensive planning program for transportation investment decision-making at the metropolitan area level. The specific requirements of metropolitan transportation planning are set forth in 49 U.S.C. 5303 and in 23 CFR part 450, as incorporated by reference in 49 CFR part 613, Metropolitan and Statewide and Non-metropolitan Planning. State Departments of Transportation (DOTs) are direct recipients of planning funds allocated by FTA, and the funds are then sub-allocated to Metropolitan Planning Organizations (MPOs) for planning activities that support the economic vitality of the metropolitan area.

The metropolitan transportation planning process must establish a performance-based approach in which the MPO will develop specific performance targets that address transportation system performance measures (issued by U.S. DOT), where applicable, to use in tracking progress towards attaining critical outcomes. These performance targets will be established by MPOs in coordination with States and transit providers. MPOs will provide a system performance report that evaluates the progress of the MPO in meeting the performance targets in comparison with the system performance identified in prior reports.

This funding must support work elements and activities resulting in comprehensive intermodal transportation planning for the movement of people and goods in the metropolitan area. Comprehensive transportation planning is not limited to transit planning or surface transportation planning but also encompasses the relationships among land use and all transportation modes, without regard to the programmatic source of Federal assistance. A representative list of eligible work elements or activities is provided in FTA Circular 8100.1D, *Program Guidance for Metropolitan Planning and State Planning and Research Program Grants*, dated September 10, 2018.

The Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL), amended 49 U.S.C. 5305(f) to require a Federal share of not less than 90 percent

for grants under the Metropolitan Planning Program (MPP) and the State Planning and Research Program (SPRP). Eligible recipients seeking an increased Federal share under 49 U.S.C. 5305(f)(2) must demonstrate that planning activities support increased mobility through expanded access to public transportation in areas with a lower population density or a lower average income in relationship to surrounding areas. In addition, on March 13, 2023, FTA approved a waiver of the non-Federal match for the MPP and the SPRP funds authorized at 49 U.S.C. 5305(f)(1) for Complete Streets planning activities conducted by States and MPOs in their transportation planning processes. The non-Federal match waiver for MPP and SPRP funds is limited to Complete Streets planning activities as identified in BIL, section 11206(c). The waiver of the non-Federal share for Complete Streets planning activities will end once a State or MPO receives approval from FHWA to opt out of meeting the requirements described in BIL, section 11206(c). Once a State or MPO opts out, they must notify FTA.

For more about the Metropolitan Planning Program, contact Ryan Long, Office of Planning and Environment at (215) 656-7051 or [ryan.long@dot.gov](mailto:ryan.long@dot.gov).

**1. Authorized Amounts**

IIJA authorized \$799.4 million over five years to provide financial assistance for metropolitan planning needs under section 5305.

**2. FY 2023 Funding Availability**

Under the Consolidated Appropriations Act, 2023, \$155,931,187 is available to the Metropolitan Planning Program (section 5305(d) and (f)) to support metropolitan transportation planning activities set forth in section 5303. The total amount apportioned for the Metropolitan Planning Program to States for use by MPOs is \$155,151,531 as shown in the table below, after the deduction for oversight (authorized by section 5338).

| <b>Metropolitan Planning Program—FY2023</b> |                    |
|---|--------------------|
| Total FY 2023 Appropriation Available ..... | \$155,931,187      |
| Oversight Deduction .....                   | (779,656)          |
| <b>Total Apportioned .....</b>              | <b>155,151,531</b> |

**3. Basis for Formula Apportionment**

Of the amounts authorized in section 5305, 82.72 percent is made available to the Metropolitan Planning program.

Eighty percent of those funds are apportioned on a statutory basis to the States based on the most recent decennial Census for each State's UZA population. The remaining 20 percent is provided to the States based on an FTA administrative formula to address planning needs in larger, more complex UZAs. The amount published for each State includes the supplemental allocation.

**4. Requirements**

The State allocates Metropolitan Planning funds to MPOs in UZAs or portions thereof to provide funds for planning projects included in a one- or two-year program of planning work activities (the Unified Planning Work Program, or UPWP) that includes multimodal systems planning activities spanning both highway and transit planning topics. Each State has either reaffirmed or developed, in consultation with their MPOs, an allocation formula among MPOs within the State, based on the 2010 Census. The allocation formula among MPOs in each State may be changed annually, but any change requires approval by the FTA Regional Office before grant approval. Program guidance for the Metropolitan Planning Program is found in FTA Circular 8100.1D.

**5. Period of Availability**

The Metropolitan Planning program funds apportioned in this notice are available for obligation during FY 2023 plus three additional fiscal years. Accordingly, funds apportioned in FY 2023 must be obligated in grants by September 30, 2026. Any FY 2023 apportioned funds that remain unobligated at the close of business on September 30, 2026, will revert to FTA for reapportionment under the Metropolitan Planning program.

*B. State Planning and Research Program (49 U.S.C. 5304, 5305(e), and 5305(f))*

This program provides financial assistance to States for statewide transportation planning and other technical assistance activities, including supplementing the technical assistance program provided through the Metropolitan Planning program. The specific requirements of Statewide transportation planning are set forth in 49 U.S.C. 5304 and in 23 CFR part 450, as incorporated by reference in 49 CFR part 613, Metropolitan and Statewide and Nonmetropolitan Planning. State DOTs are required to reference

performance measures and performance targets within the Statewide Planning process. This funding must support work elements and activities resulting in comprehensive intermodal transportation planning for the movement of people and goods and has the same eligibilities as metropolitan planning funds. Comprehensive transportation planning is not limited to transit planning or surface transportation planning but also encompasses the relationships among land use and all transportation modes, without regard to the programmatic source of Federal assistance.

The Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL), amended 49 U.S.C. 5305(f) to require a Federal share of not less than 90 percent for grants under the Metropolitan Planning Program (MPP) and the State Planning and Research Program (SPRP). Eligible recipients seeking an increased Federal share under 49 U.S.C. 5305(f)(2) must demonstrate that planning activities support increased mobility through expanded access to public transportation in areas with a lower population density or a lower average income in relationship to surrounding areas. In addition, on March 13, 2023, FTA approved a waiver of the non-Federal match for the MPP and the SPRP funds authorized at 49 U.S.C. 5305(f)(1) for Complete Streets planning activities conducted by States and MPOs in their transportation planning processes. The non-Federal match waiver for MPP and SPRP funds is limited to Complete Streets planning activities as identified in BIL, section 11206(c). The waiver of the non-Federal share for Complete Streets planning activities will end once a State or MPO receives approval from FHWA to opt out of meeting the requirements described in BIL, section 11206(c). Once a State or MPO opts out, they must notify FTA.

For more information, contact Ryan Long, Office of Planning and Environment at (215) 656-7051 or [ryan.long@dot.gov](mailto:ryan.long@dot.gov).

1. Authorized Amounts

IIJA authorized \$167 million over five years to provide financial assistance for statewide planning and other technical assistance activities under section 5305.

2. FY 2023 Funding Availability

In FY 2023, \$32,573,633 is available to the State Planning and Research Program (section 5305(e) and (f)). The total amount apportioned for the State Planning and Research Program (SPRP) is \$32,412,789 as shown in the table

below, after the deduction for oversight and addition of reapportioned funds.

| Statewide Planning Program—FY 2023 |                   |
|------------------------------------|-------------------|
| Total Appropriation .....          | \$32,573,633      |
| Oversight Deductions ...           | (162,868)         |
| Reapportioned Funds ...            | 2,024             |
| <b>Total Apportioned .....</b>     | <b>32,412,789</b> |

States' apportionments for this program are displayed in table 2.

3. Basis for Formula Apportionment

Of the amount authorized in section 5305, 17.28 percent is allocated to the State Planning and Research Program. FTA apportions these funds to States by a statutory formula that is based on the most recent decennial Census data available, and the State's UZA population as compared to the UZA population of all States.

4. Requirements

Funds are provided to States for Statewide transportation planning programs. These funds may be used for a variety of statewide and nonmetropolitan transportation planning purposes such as developing transportation plans and programs, planning and evaluating public transportation projects, and conducting technical studies. In addition, a State may authorize a portion of these funds to be used to supplement Metropolitan Planning funds allocated by the State to its UZAs, as the State deems appropriate. Program guidance for the State Planning and Research program is found in FTA Circular 8100.1D.

5. Period of Availability

The State Planning and Research program funds apportioned in this notice are available for obligation during FY 2023 plus three additional fiscal years. Accordingly, funds apportioned in FY 2023 must be obligated in grants by September 30, 2026. Any FY 2023 apportioned funds that remain unobligated at the close of business on September 30, 2026, will revert to FTA for reapportionment under the State Planning and Research Program.

C. Urbanized Area Formula Program (49 U.S.C. 5307)

The Urbanized Area Formula Program provides Federal assistance for capital, planning, job access and reverse commute projects, and, in some cases, operating assistance for public transportation in urbanized areas. In accordance with 49 U.S.C. 5302, an urbanized area (UZA) is an Urban Area, as defined and designated as such by the U.S. Census Bureau, with a

population of 50,000 or more. Program funds are apportioned to urbanized areas through a statutory formula. In addition, \$30 million is allocated each year under this program to passenger ferry projects through a discretionary funding competition.

For more information about the Urbanized Area Formula Program, contact Bret Martin with the Office of Transit Programs, at (202) 366-0870 or [bret.martin@dot.gov](mailto:bret.martin@dot.gov).

1. Authorized Amounts

IIJA authorized \$33.5 billion over five years to provide financial assistance for urbanized areas under section 5307. Of the amounts authorized and appropriated for section 5307 in each year, \$30 million is set aside for the competitive discretionary Passenger Ferry Grant Program, 0.75 percent is apportioned to eligible States for State Safety Oversight (SSO), and 0.75 percent is set aside for oversight.

2. FY 2023 Funding Availability

Under the Consolidated Appropriations Act, 2023, \$6,542,164,133 is available for the Urbanized Area Formula program. The total amount apportioned is \$7,060,120,714 after deductions for the State Safety Oversight Program, Passenger Ferry Program, and oversight (authorized by section 5338) and the addition of section 5340 and reapportioned funds as shown in the table below.

| Urbanized Area Formula Program—FY 2023 |                      |
|--|----------------------|
| Total Appropriation .....              | \$6,542,164,133      |
| Oversight Deductions ...               | (49,066,231)         |
| State Safety Oversight Program .....   | (49,066,231)         |
| Passenger Ferry Program .....          | (30,000,000)         |
| Section 5340 High Density States ..... | 355,566,259          |
| Section 5340 Growing States .....      | 286,316,112          |
| Reapportioned Funds ...                | 4,206,672            |
| <b>Total Apportioned .....</b>         | <b>7,060,120,714</b> |

3. Basis for Formula Apportionment

FTA apportions Urbanized Area Formula Program funds based on statutory formulas. Congress established four separate formulas that are used to apportion the available funding: the section 5307 Urbanized Area Formula Program formula, the Small Transit Intensive Cities (STIC) formula, the Growing States and High-Density States formulas, and a formula based on low-income population.

a. Section 5307—Urbanized Area Formula

For UZAs between 50,000 and 199,999 in population, the section 5307 formula is based on population and population density. For UZAs with populations of 200,000 and more, the formula is based on a combination of bus vehicle revenue miles, bus passenger miles, bus operating costs, fixed guideway vehicle revenue miles, and fixed guideway directional route miles, as well as population and population density. The Urbanized Area Formula is defined in 49 U.S.C. 5336.

To calculate a UZA's FY 2023 apportionment, FTA used population and population density statistics from the 2010 Census and validated mileage and transit service data from transit providers' 2019 or 2021 National Transit Database (NTD) Report Year, defaulting to the year with the higher vehicle revenue miles unless instructed otherwise by the reporting agency. Consistent with section 5336(b), FTA has included 27 percent of the fixed guideway directional route miles and vehicle revenue miles from eligible urbanized area transit systems, but which were attributable to rural areas outside of the urbanized areas from which the system receives funds. FTA has calculated dollar unit values for the formula factors used in the Urbanized Area Formula Program apportionment calculations. These values represent the amount of money each unit of a factor is worth in this year's apportionment. The unit values change each year based on all of the data used to calculate the apportionments, as well as the amount appropriated by Congress for the apportionment. The dollar unit values for FY 2023 are displayed in table 5. To replicate the basic formula component of a UZA's apportionment, multiply the dollar unit value by the appropriate formula factor (*i.e.*, the population, population x population density), and when applicable, data from the NTD (*i.e.*, directional route miles, vehicle revenue miles, passenger miles, and operating cost).

b. Small Transit Intensive Cities Formula (STIC)

Under the STIC formula, FTA apportions 3 percent of the funds made available for section 5307 to UZAs that are under 200,000 in population and have public transportation service that operates at a level equal to or above the industry average for UZAs with a population of at least 200,000, but not more than 999,999. STIC funds are apportioned on the basis of one or more of six performance categories: passenger

miles traveled per vehicle revenue mile, passenger miles traveled per vehicle revenue hour, vehicle revenue miles per capita, vehicle revenue hours per capita, passenger miles traveled per capita, and passengers per capita.

The data used to determine a UZA's eligibility under the STIC formula and to calculate the STIC apportionments was obtained from the NTD. Because performance data change with each year's NTD reports, the UZAs eligible for STIC funds and the amount each receives may vary each year. UZAs that received funding through the STIC formula for FY 2023 are listed in table 6.

c. Section 5340—Growing States and High-Density States Formula

FTA also apportions funds to qualifying UZAs and States according to the section 5340 Growing States and High-Density States formula, as shown in table 3. More information on this program and its formula is found in section IV.P. of this notice.

d. Low-Income Population

Of the amount authorized and appropriated for the Urbanized Area Formula Program in each year, 3.07 percent is apportioned on the basis of low-income population.

As specified in statute, FTA apportions 75 percent of the available funds to UZAs with a population of 200,000 or more. Funds are apportioned based on the ratio of the number of low-income individuals in each UZA to the total number of low-income individuals in all urbanized areas of that size. FTA apportions the remainder of the funds (25 percent) to UZAs with populations of less than 200,000, according to an equivalent formula. The low-income populations used for this calculation were based on the American Community Survey (ACS) data set for 2016—2020. This information is updated by the Census Bureau annually.

4. Eligible Expenses

Eligible activities include planning, engineering, design and evaluation of transit projects and other technical transportation-related studies; capital investments in bus and bus-related activities such as replacement, overhaul and rebuilding of buses; crime prevention and security equipment; construction of maintenance and passenger facilities; and capital investments in new and existing fixed guideway systems, including rolling stock, overhaul and rebuilding of vehicles, track, signals, communications, and computer hardware and software. All preventive

maintenance and some Americans with Disabilities Act complementary paratransit service costs are considered capital costs. For urbanized areas with populations less than 200,000, operating assistance is an eligible expense. In areas with a population of 200,000 or more, operating assistance is an eligible expense for an applicant that operates a maximum of 100 buses during peak service hours, per 49 U.S.C. 5307(a)(2) (the "100-bus rule"). Job access and reverse commute activities remain eligible under the program.

In addition, recipients may use up to one-half of one percent of their section 5307 funds to support workforce development activities, including supportive services, at an 80 percent Federal share; the eligible workforce development activities are defined in section 5314; see section IV.K. of this notice for more information. This provision is in addition to the one-half of one percent that a recipient may use for training activities with the National Transit Institute.

5. Requirements

Program guidance for the Urbanized Area Formula Program is found in FTA Circular 9030.1E, *Urbanized Area Formula Program: Program Guidance and Application Instructions*, dated January 16, 2014, and is supplemented by additional information and changes provided in this notice and that may be posted to the FTA's section 5307 web page.

6. Period of Availability

Funds made available under section 5307 are available for obligation during the year of apportionment plus five additional years. Accordingly, funds apportioned in FY 2023 must be obligated in grants by September 30, 2028. Any FY 2023 apportioned funds that remain unobligated at the close of business on September 30, 2028, will revert to FTA for reapportionment under the Urbanized Area Formula Program.

*D. Fixed Guideway Capital Investment Grants Program (49 U.S.C. 5309)*

The Capital Investment Grants (CIG) Program includes three types of eligible projects—New Starts projects, Small Starts projects, and Core Capacity Improvement projects. Funding is provided for construction of: (1) new fixed guideway systems or extensions to existing fixed guideway systems such as rapid rail (heavy rail), commuter rail, light rail, trolleybus (using overhead catenary), cable car, passenger ferries, and bus rapid transit operating on an exclusive transit lane for the majority of

the corridor length that also includes features that emulate the services provided by rail fixed guideway including defined stations, traffic signal priority for public transit vehicles, and short headway bi-directional service for a substantial part of weekdays and weekends; (2) corridor-based bus rapid transit service that does not operate on an exclusive transit lane but includes features that emulate the services provided by rail fixed guideway including defined stations, traffic signal priority for public transit vehicles, and short headway bi-directional services for a substantial part of weekdays; and (3) projects that expand the capacity by at least 10 percent of an existing fixed guideway corridor that is at capacity today or will be in ten years.

Projects become candidates for funding under the Capital Investment Grants program by successfully completing steps in the multi-year process defined in section 5309 and obtaining a satisfactory rating under the statutorily defined criteria. For New Starts and Core Capacity Improvement projects, the steps in the process include project development, engineering, and construction. For Small Starts projects the steps in the process include project development and construction. New Starts and Core Capacity Improvement projects receive construction funds from the program through a full funding grant agreement (FFGA) that defines the scope of the project and specifies the total multi-year Federal commitment to the project. Small Starts projects receive construction funds through a single year grant or an expedited grant agreement that defines the scope of the project and specifies the Federal commitment to the project.

Bundles of CIG projects, comprised of multiple New Starts, Core Capacity, or Small Starts projects being pursued by the same project sponsor, are also allowed. Bundles must enhance or increase the capacity of the transportation system and streamline procurements or enable time or cost savings for the projects.

For more information about the Capital Investment Grants program contact Elizabeth Day, Office of Capital Project Development, at (202) 366-5159 or [elizabeth.day@dot.gov](mailto:elizabeth.day@dot.gov).

For information about published allocations contact Kevin Osborn, Office of Transit Programs, at (202) 366-7519 or [kevin.osborn@dot.gov](mailto:kevin.osborn@dot.gov).

1. Authorized Amounts

IJA authorized \$15 billion to be appropriated over five years for the CIG program and the Expedited Project Delivery Pilot Program (EPD), with an

additional \$8 billion in advance appropriations.

2. FY 2023 Funding Availability

Under the Consolidated Appropriations Act, 2023, \$3,810,000,000 is available for the Capital Investment Grants (CIG) Program and the FAST Act section 3005(b) Expedited Project Delivery Pilot Program. The total amount available for projects is \$3,771,900,000 as shown in the table below, after the deduction for oversight (authorized by section 5338).

| Capital Investment Grant Program—FY 2023 |                 |
|--|-----------------|
| Total Appropriation .....                | \$3,810,000,000 |
| Oversight .....                          | (38,100,000)    |
| Deduction .....                          | .....           |
| Total Apportioned .....                  | 3,771,900,000   |

In addition, \$425,000,000 is available as additional funding to support New Start and Core Capacity Improvement CIG Projects with existing Full Funding Grant Agreements (FFGA) that met criteria listed in division L, section 165 of the Consolidated Appropriations Act, 2023. Such amounts are in addition to the CIG amounts identified in the FFGA.

| Additional Funding to Projects with Existing FFGAs—FY 2023 |               |
|--|---------------|
| Additional Funding for Existing FFGAs .....                | \$425,000,000 |
| Total Apportioned .....                                    | 425,000,000   |

3. Basis for Allocation

CIG Funds are allocated on a discretionary basis and subject to program evaluation. However, the \$425 million in additional funding to projects with existing FFGAs was allocated based on factors identified in the Consolidated Appropriations Act, 2023.

4. Eligible Expenses

See beginning of section D above.

5. Requirements

Project sponsors should reference the FTA website at <https://www.transit.dot.gov/CIG> for the most current Capital Investment Grants program policy guidance to learn what is required to enter and advance through the program. Grant-related guidance is found in FTA Circular 9300.1B, *Capital Investment Grant Program Guidance and Application Instructions*, November 1, 2008; and C5200.1A, *Full Funding Grant Agreement Guidance*, December 5, 2002.

6. Period of Availability

Funding is available for four years, which is the fiscal year in which the amount is allocated to a project plus three additional years. Therefore, funds for a project allocated funding in FY 2023 must be obligated for the project by September 30, 2026. Section 5309 funds that remain unobligated after four fiscal years to the projects for which they were originally designated may be made available for other section 5309 projects.

*E. Enhanced Mobility of Seniors and Individuals With Disabilities Program (49 U.S.C. 5310)*

The Enhanced Mobility of Seniors and Individuals with Disabilities Program provides formula funding apportioned to direct recipients: States for rural (population under 50,000) and small urbanized areas (population from 50,000 to 199,999); and designated recipients chosen by the Governor of the State for large urbanized areas (populations of 200,000 or more); or a State or local governmental entity that operates a public transportation service. The section 5310 program provides capital and operating assistance to improve the mobility for older adults and people with disabilities by removing barriers to transportation service and expanding transportation mobility options. This program supports transportation services planned, designed, and carried out to meet the transportation needs of older adults and people with disabilities.

This program provides funds for capital and operating assistance for: (1) public transportation to meet the needs of older adults and people with disabilities when public transportation is insufficient, inappropriate, or unavailable; (2) public transportation projects that exceed the requirements of the Americans with Disabilities Act (ADA); (3) public transportation projects that improve access to fixed-route service and decrease reliance on complementary paratransit; and (4) alternatives to public transportation that meet the transportation needs of older adults and people with disabilities.

Section 5310 funds are available for capital and operating expenses to support the provision of transportation services to meet the specific needs of older adults and people with disabilities. Additional information on eligible expenses can be found in FTA Circular 9070.1G, *Enhanced Mobility of Seniors and Individuals with Disabilities Program Guidance and Application Instructions*, dated July 7, 2014.

For more information about the section 5310 program, contact Destiny Buchanan, Office of Transit Programs, at (202) 493-8018 or [destiny.buchanan@dot.gov](mailto:destiny.buchanan@dot.gov).

#### 1. Authorized Amounts

IJA authorized \$1,943,105,343 over five years for the Enhanced Mobility of Seniors and Individuals with Disabilities formula program, with an additional \$250 million provided in advance appropriations.

#### 2. FY 2023 Funding Availability

In FY 2023, \$429,002,836 is appropriated for the program. A total of \$428,004,567 is available for allocation after the oversight and administrative deduction, transfer to the U.S. DOT Office of Inspector General, and addition of reapportioned funds as shown in the table below.

| Section 5310 Formula Program—FY 2023 |                    |
|--------------------------------------|--------------------|
| Total Appropriation .....            | \$429,002,836      |
| Oversight and Administrative .....   | (2,890,014)        |
| Transfer to OIG .....                | (5,000)            |
| Reapportioned Funds ...              | 1,896,745          |
| <b>Total Apportioned .....</b>       | <b>428,004,567</b> |

#### 3. Basis for Formula Apportionment

Sixty percent of the funds are apportioned among designated recipients for urbanized areas with a population of 200,000 or more individuals. Twenty percent of the funds are apportioned among the States for their urbanized areas with a population of at least 50,000 but less than 200,000. Twenty percent of the funds are apportioned among the States for rural areas with a population of less than 50,000. Census Data on Older Adults and People with Disabilities is used for the section 5310 Enhanced Mobility of Older Adults and People with Disabilities Apportionments. To view the table 8, which displays the amounts apportioned under the Enhanced Mobility of Seniors and Individuals with Disabilities Program, see FTA's FY 2023 Apportionments web page.

Under the section 5310 formula, funds are allocated using Census data on seniors (*i.e.*, persons 65 and older) and people with disabilities. However, beginning in 2010, the Census Bureau stopped collecting this demographic information as part of its decennial census. Data on seniors and people with disabilities is now only available from the American Community Survey (ACS), which is conducted and published on a rolling basis. FTA's FY

2023 section 5310 apportionments incorporate ACS data published in December 2021, which was the most-recent data available at the start of Federal FY 2023. Data on seniors comes from the ACS 2016—2020 five-year data set, Table B01001, "Sex by Age." Data on persons with disabilities comes from the ACS 2016—2020 five-year data set, Table S.1810, "Disability Characteristics."

#### 4. Requirements

Eligible direct recipients include States for rural and small urban areas and designated recipients chosen by the Governor of the State for large urban areas. Federally recognized Indian tribes and State or local governmental entities that operate a public transportation service are also eligible direct recipients.

Eligible subrecipients include private nonprofit organizations, and state or local governmental authorities approved by a state to coordinate services for older adults and people with disabilities, or state or local governmental authorities which certify to the Governor that no nonprofit organizations or associations are readily available in an area to provide the service.

Of the amounts apportioned to states and designated recipients, not less than 55 percent of funds must be used for "traditional" section 5310 projects—those public transportation capital projects planned, designed, and carried out to meet the specific needs of seniors and individuals with disabilities when public transportation is insufficient, unavailable, or inappropriate. Up to 45 percent of an area's apportionment may be used for additional public transportation projects that: exceed the Americans with Disabilities Act minimum requirements; improve access to fixed-route service and decrease reliance by individuals with disabilities on ADA complementary paratransit service; or provide alternatives to public transportation that assist seniors and individuals with disabilities with transportation.

All projects funded under this program must be included in a locally developed, coordinated public transit-human service transportation plan.

#### 5. Period of Availability

For Enhanced Mobility of Seniors and Individuals with Disabilities Program funds apportioned under this notice, the period of availability is the year of apportionment plus two additional years. Accordingly, funds apportioned in FY 2023 must be obligated in grants by September 30, 2025. Any FY 2023

apportioned funds that remain unobligated at the close of business on September 30, 2025, will revert to FTA for reapportionment among the States and urbanized areas.

#### 6. Other Program Highlights

Recipients may use a competitive selection process to select projects, but it is not required. A State may transfer funds apportioned to small, urbanized areas and rural areas to other parts of the state if it can certify that the needs are being met in the area to which the funds were originally apportioned. Funds apportioned to large, urbanized areas may not be used outside the urbanized area to which they were apportioned.

Transit service providers receiving section 5310 funds may coordinate and assist in providing meal delivery services on a regular basis as long as this does not conflict with the provision of transit services.

Additional information about the requirements for the section 5310 program can be found in FTA Circular 9070.1G, *Enhanced Mobility of Seniors and Individuals with Disabilities Program Guidance and Application Instructions*, dated July 7, 2014.

#### F. Formula Grants for Rural Areas Program (49 U.S.C. 5311)

The Rural Areas program provides formula funding to States and Indian tribes for the purpose of supporting public transportation in areas with a population of less than 50,000. Funding may be used for capital, operating, planning, job access and reverse commute projects, and State administration expenses. Eligible subrecipients include State and local governmental authorities, Indian Tribes, private non-profit organizations, and private operators of public transportation services, including intercity bus companies. Indian Tribes are also eligible direct recipients under section 5311, both for funds apportioned to the States and for projects apportioned or selected to be funded with funds set aside for a separate Tribal Transit Program.

For more information about the Formula Grants for Rural Areas program, contact Matt Lange, Office of Transit Programs, at (312) 353-4118 or [matthew.lange@dot.gov](mailto:matthew.lange@dot.gov).

#### 1. Authorized Amounts

IJA authorized \$4.1 billion over five years to provide financial assistance for rural areas under section 5311(c)(3). The section 5311 program includes three other programs: the Rural Transit Assistance Program (RTAP); the

Appalachian Development Public Transportation Assistance Program; and the Tribal Transit Program. These separate programs are described in the sections that follow.

In addition to the funds made available to States under section 5311, \$114.6 million of the funds authorized for the section 5340 Growing States formula factors are apportioned to States for use in rural areas.

2. FY 2023 Funding Availability

Under the Consolidated Appropriations Act, 2023, \$804,217,747 is available for the Rural Area Formula Program. The total amount apportioned to the program is \$914,581,455 as shown in the table below, after the addition of section 5340 Growing States, reapportioned funds and the oversight deduction authorized by section 5338.

**Grants for Rural Areas Formula Program—  
FY 2023**

|                                   |                    |
|-----------------------------------|--------------------|
| Total FY 2023 Appropriation ..... | \$804,217,747      |
| Oversight Deduction .....         | (4,467,876)        |
| Section 5340 Growing States ..... | 114,641,584        |
| Reapportioned Funds .....         | 190,000            |
| <b>Total Apportioned .....</b>    | <b>914,581,455</b> |

3. Basis for Formula Apportionment

FTA apportions section 5311 funds to the states by a statutory formula. The majority of rural formula funds (83.15 percent) are apportioned based on land area and population factors. In this first tier, no state may receive more than 5 percent of the amount apportioned on the basis of land area. The remaining rural formula funds (16.85 percent) are apportioned based on land area, vehicle revenue miles, and low-income individual factors. In this second tier, no state may receive more than 5 percent of the amount apportioned on the basis of land area, or more than 5 percent of the amounts apportioned for vehicle revenue miles. In addition to funds made available under section 5311, FTA adds amounts apportioned based on rural population according to the Growing States formula factors of 49 U.S.C. 5340 to the amounts apportioned to the states under the section 5311 formula. Before FTA apportions section 5311 funds to the states, FTA subtracts funding from the total available amounts for the Appalachian Development Transportation Assistance Program, the Tribal Transit Program, the Rural Transportation Assistance Program (RTAP), and FTA oversight activities.

Data from the Rural Module of the National Transit Database (NTD) was used for this apportionment, including data from directly reporting Indian tribes. Data from public transportation systems that reported to the Annual (Urbanized Area) Module, and not attributable to an urbanized area, was also included.

4. Requirements

The section 5311 program provides funding for capital, operating, planning, job access and reverse commute projects, and administration expenses for public transit service in rural areas under 50,000 in population. The planning activities undertaken with section 5311 funds are in addition to those awarded to the State under section 5305 and must be used specifically for rural areas' needs. Additional information on eligible expenses can be found in Circular 9040.1G, *Formula Grants for Rural Areas: Program Guidance and Application Instructions*, dated October 24, 2014.

a. Intercity Bus Transportation

Each State must spend no less than 15 percent of its annual Rural Areas Formula apportionment for the development and support of intercity bus transportation, unless it can certify, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are adequately being met.

b. State Administration

States may elect to use up to 10 percent of their apportionment at 100 percent Federal share to administer the section 5311 program and provide technical assistance to subrecipients.

c. Eligibility for Safety Certification Training

Recipients of section 5311 funds are permitted to use not more than 0.5 percent of their formula funds under the Rural Areas program to pay not more than 80 percent of the cost of participation for an employee who is directly responsible for safety oversight to participate in public transportation safety certification training. Safety certification training program requirements are established in accordance with section 5329.

The Federal share for capital assistance is 80 percent and for operating assistance is 50 percent, except that States eligible for the sliding scale match under FHWA programs may use that match ratio for section 5311 capital projects and 62.5 percent of the sliding scale capital match ratio for operating projects.

Each State prepares an annual program of projects, which must provide for fair and equitable distribution of funds within the States, including Indian reservations, and must provide for maximum feasible coordination with transportation services assisted by other Federal sources.

Additional program guidance for the Rural Areas Program is found in FTA Circular 9040.1G, *Formula Grants for Rural Areas: Program Guidance and Application Instructions*, dated October 24, 2014, and is supplemented by additional information and changes provided in this notice and that may be posted to FTA's section 5311 web page.

5. Period of Availability

Section 5311 funds remain available to states for obligation for three Federal fiscal years, beginning with the year of apportionment plus two additional years. The Rural Areas program funds apportioned in this notice are available for obligation during FY 2023 plus two additional years. Any FY 2023 apportioned funds that remain unobligated at the close of business on September 30, 2025, will revert to FTA for reapportionment under the Rural Areas program.

*G. Rural Transportation Assistance Program (49 U.S.C. 5311(b)(3))*

The Rural Transportation Assistance Program (RTAP) provides funding to states to assist in the design and implementation of training and technical assistance projects, research, and other support services tailored to meet the needs of transit operators in rural areas.

The National Rural Transit Assistance Program (NRTAP) is administered through a cooperative agreement and re-competed at five-year intervals. In 2019, FTA awarded a cooperative agreement to Neponset Valley Transportation Management Association to administer NRTAP. NRTAP addresses the training and technical assistance needs of rural and tribal transit operators across the nation and supports state RTAP programs. NRTAP's comprehensive set of free technical assistance programs and resources includes training materials, webinars, newsletters and technical briefs, peer resources, research, and innovative technology initiatives.

For more information about Rural Transportation Assistance Program (RTAP) contact Matt Lange, Office of Transit Programs, at (312) 353-4118 or [matthew.lange@dot.gov](mailto:matthew.lange@dot.gov).

1. Authorized Amounts

IIJA authorizes \$105 million over five years to carry out this program. Of this amount, 15 percent is reserved for the National RTAP program.

2. FY 2023 Funding Availability

Under the Consolidated Appropriations Act, 2023, \$17,871,506 is available for the RTAP. The total amount apportioned for RTAP is \$15,190,780 as shown in the table below, after the deduction for NRTAP.

| Rural Transportation Assistance Program—FY 2023 |              |
|---|--------------|
| Total Appropriation .....                       | \$17,871,506 |
| National RTAP .....                             | (2,680,726)  |
| Total Apportioned .....                         | 15,190,780   |

State allocations are shown in table 9 posted on FTA's FY 2023 Apportionments web page.

3. Basis for Formula Apportionment

FTA allocates funds to the States by an administrative formula. First, FTA allocates \$65,000 to each State (\$10,000 to territories), and then allocates the balance based on rural population.

4. Requirements

Eligible expenses include the design and implementation of training and technical assistance projects, research, and other support services tailored to meet the needs of transit operators in rural areas.

States may use the funds to undertake research, training, technical assistance, and other support services to meet the needs of transit operators in rural areas. These funds should be used in conjunction with a State's administration of the Rural Areas Formula Program and may also support the rural components of the section 5310 program.

5. Period of Availability

The section 5311 RTAP funds apportioned in this notice are available for obligation in FY 2023 plus two additional years, consistent with that established for the section 5311 program. Any FY 2023 apportioned funds that remain unobligated at the close of business on September 30, 2025, will revert to FTA for reappportionment under the Rural Areas program.

H. Appalachian Development Public Transportation Assistance Program (49 U.S.C. 5311(c)(2))

This program provides additional funding to support public transportation in the Appalachian region. There are

thirteen eligible States that receive an allocation under this provision. The States and their allocation are shown in the table 9 posted on FTA's FY 2023 Apportionments web page.

For more information about the Appalachian Development Public Transportation Assistance Program, contact Matt Lange, Office of Transit Programs, at (312) 353-4118 or [matthew.lange@dot.gov](mailto:matthew.lange@dot.gov).

1. Authorized Amounts

A total of \$137.4 million is authorized over five years to support public transportation in the Appalachian region.

2. FY 2023 Funding Availability

Under the Consolidated Appropriations Act, 2023, \$26,807,258 million is available. The total amount apportioned to the program is \$26,849,056 as shown in the table below, after the addition of reappportioned funds.

| Appalachian Development Public Transportation Assistance Program—FY 2023 |                        |
|--|------------------------|
| Total FY 2023 Available Reappportioned Funds ...                         | \$26,807,258<br>41,798 |
| Total Apportioned .....  | 26,849,056             |

3. Basis for Formula Apportionment

FTA apportions the funds using percentages established under section 9.5(b) of the Appalachian Regional Commission Code (subtitle IV of title 40 U.S.C.). Allocations are based in general on each State's remaining estimated need to complete eligible sections of the Appalachian Development Highway System as determined from the latest percentages of available cost estimates for completion of the System. Allocations contain upper and lower limits in amounts determined by the Commission and are made in accordance with legislative instructions.

4. Requirements

Funds apportioned under this program can be used for purposes consistent with section 5311 to support public transportation in the Appalachian region. Funds can be applied for in the State's annual section 5311 grant. Appalachian program funds that cannot be used for operating may be used for a highway project under certain circumstances. States should contact their Regional Office if they intend to request a transfer. Additional information about the requirements for this section can be found in chapter VII of FTA Circular 9040.1G, *Formula*

*Grants for Rural Areas: Program Guidance and Application Instructions*, dated October 24, 2014.

5. Period of Availability

Section 5311 Appalachian program funds are available for three years, which includes the year of apportionment plus two additional years, consistent with that established for the section 5311 program. Any FY 2023 apportioned funds that remain unobligated at the close of business on September 30, 2025, will revert to FTA for reappportionment under the Rural Areas program.

I. Formula Grants for Public Transportation on Indian Reservations Program (49 U.S.C. 5311(j))

The Public Transportation on Indian Reservations Program or Tribal Transit Program (TTP) is funded as a takedown from the section 5311 program. Eligible direct recipients are federally recognized American Indian Tribes and Alaskan Native Villages, groups and communities providing public transportation in rural areas. The TTP funds are allocated for grants to eligible recipients for any purpose eligible under section 5311, which includes capital, operating, planning, and job access and reverse commute projects. No local match is required for TTP formula funds.

For more information about the Tribal Transit Program contact Elan Flippin-Jones, Office of Transit Programs at (202) 366-3800 or [TribalTransit@dot.gov](mailto:TribalTransit@dot.gov).

1. Authorized Funding

A total of \$229 million is authorized over five years, of which \$183.2 million is for a formula program and \$45.8 million is for a discretionary grant program.

2. FY 2023 Funding Availability

Under the Consolidated Appropriations Act, 2023, \$35,743,011 is available for the Tribal Transit formula program. The total apportioned for the formula program is \$36,413,211 after the addition of reappportioned funds.

| Public Transportation on Indian Reservations Program Formula Grants—FY 2023 |              |
|---|--------------|
| Total FY 2023 Appropriation Available .....                                 | \$35,743,011 |
| Reappportioned Funds ...  | 670,200      |
| Total Apportioned .....   | 36,413,211   |

3. Basis for Formula Apportionment

Funding is allocated by formula to eligible Indian Tribes providing public transportation on tribal lands in rural areas. The formula apportionment shown in Table 10 is based on a statutory formula which includes three tiers. Tiers 1 and 2 are based on data reported to NTD by Indian tribes; Tier 3 is based on 2016–2020 American Community Survey data. The three tiers for the formula are: Tier 1—50 percent based on vehicle revenue miles reported to the NTD; Tier 2—25 percent provided in equal shares to Indian Tribes reporting at least 200,000 vehicle revenue miles to the NTD; Tier 3—25 percent based on Indian Tribes providing public transportation on Tribal Lands (American Indian Areas, Alaska Native Areas, and Hawaiian Home Lands) on which more than 1,000 low income individuals reside. If more than one Tribe provides public transportation services on Tribal Lands in a single Tribal Statistical area, and the tribes cannot determine how to allocate Tier 3 funds, FTA will allocate the funds based on the relative portion of transit (as defined by unlinked passenger trips) operated by each Tribe, as reported to the National Transit Database.

4. Requirements

Formula funds apportioned under this program can be used for purposes consistent with section 5311 to support public transportation on Indian Reservations in rural areas.

Section 5335 requires NTD reporting for all direct recipients and subrecipients of section 5311 funds. This reporting requirement has and continues to apply to the Tribal Transit Program. Tribes that provide public transportation in rural areas are reminded to report annually so they are included in the TTP formula apportionments. Tribes needing assistance with reporting to the NTD should contact the NTD Helpdesk: [NTDHelp@dot.gov](mailto:NTDHelp@dot.gov) or the Appian NTD Reporting Application Support line: (877) 561–7466.

Additional program guidance for the TTP is found in FTA Circular 9040.1G, *Formula Grants for Rural Areas: Program Guidance and Application Instructions*, dated October 24, 2014, and is supplemented by additional information and changes provided in this notice and that may be posted to FTA’s Tribal Transit web page.

5. Period of Availability

Funding under the TTP is available for three years, which includes the year

of apportionment or allocation plus two additional years, consistent with that established for the section 5311 program. Any FY 2023 formula funds that remain unobligated at the close of business on September 30, 2025, will revert to FTA for reapportionment under the TTP.

6. Other Program Highlights

The funds set aside for the TTP are not meant to replace or reduce funds that Indian Tribes receive from States through the section 5311 program but are to be used to enhance public transportation on Indian reservations and transit serving Tribal communities. Funds allocated to Indian Tribes by a State may be included in the State’s section 5311 application or awarded by FTA in a grant directly to the Indian Tribe. FTA encourages Indian Tribes intending to apply to FTA as direct recipients to contact the appropriate FTA Regional Office at the earliest opportunity.

TTP recipients must comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal requirements in carrying out the project supported by the FTA grant. FTA assists Tribes with understanding these requirements through Tribal Transit Technical Assistance Workshops, and the Tribal Transit Technical Assistance Assessments initiative. Through these assessments, FTA collaborates with Tribal Transit grantees to review processes and identify areas in need of improvement and then assist with solutions to address these needs—all in a supportive and mutually beneficial manner. Information about upcoming workshops and other technical assistance opportunities will be posted on the FTA website. FTA’s Regional Tribal Transit Liaisons are available to assist Tribes with applying for and managing FTA grants. A list of Regional Tribal Transit Liaisons can be found on FTA’s website at: <https://www.transit.dot.gov/funding/grants/federal-transit-administrations-regional-tribal-liaisons>.

The Tribal Transportation Self-Governance Program (TTSGP) was authorized by the FAST Act and is codified at 23 U.S.C. 207. Grant funding made available through the FTA formula or competitive TTP may be included in a Tribal Transportation Self-Governance funding agreement if there is an existing Self-Governance compact in place between the Tribe and the Department of Transportation. If funds are transferred to a Tribal Self-Governance funding agreement, the funds will be subject to the requirements and provisions of the

Tribal Transportation Self-Governance Program regulation at 49 CFR part 29 and may be used only for the purpose for which they were awarded.

For more information about the Tribal Transit Program, please contact Elan Flippin-Jones at [TribalTransit@dot.gov](mailto:TribalTransit@dot.gov) or (202)366–3800.

J. Public Transportation Innovation (49 U.S.C. 5312)

FTA’s innovative research program includes three distinct programs: (a) a Research, Development, Demonstration, Deployment, and Evaluation program (49 U.S.C. 5312(b)–(e)); (b) a Low or No Emission Vehicle Component Assessment Program (Lo-No CAP) (49 U.S.C. 5312(h)); and (c) a Transit Cooperative Research Program (TCRP) (49 U.S.C. 5312(i)).

For more information about the Public Transportation Innovation program, contact Mary Leary, Office of Research, Demonstration and Innovation at (202) 366–4052 or [mary.leary@dot.gov](mailto:mary.leary@dot.gov).

1. Authorized Funding

IIJA authorizes \$192.8 million over five years.

2. FY 2023 Funding Availability

Under the Consolidated Appropriations Act, 2023, \$32,789,262 is available for the Public Transportation Innovation program. The total amounts apportioned to each subcomponent of the program is shown below in the table.

**Public Transportation Innovation—FY 2023**

|  |                   |
|--|-------------------|
| Research, Development, Demonstration, Deployment, and Evaluation ..... | \$32,789,262      |
| Low or No Emission Vehicle Component Testing .....                     | 5,104,455         |
| Transit Cooperative Research Program (TCRP) .....                      | 6,716,026         |
| <b>Total Apportioned .....</b>   | <b>44,609,743</b> |

3. Basis for Allocation of Funds

Section 5312 funds are allocated according to the authorized purposes and amounts described above, and then remaining amounts are subject to discretionary allocations where not specifically authorized. For FY 2023, FTA intends to fund projects and activities in support of the FTA FY 2023 action plan in five major areas: safety, climate and resiliency, equity, economic strength, and transformation. The Consolidated Appropriations Act, 2023, included \$7 million in Transit

Infrastructure Grants, including: \$1 million for demonstration and deployment for innovation mobility solutions; \$1 million for the accelerating innovative mobility initiative; and \$5 million for technical assistance, research, demonstration, or deployment activities or projects to accelerate the adoption of zero emissions buses. Projects may be selected through competitive Notices of Funding Opportunity (NOFO), noncompetitive awards, and partnerships with other Federal entities through interagency agreements. Potential recipients can register to receive information on NOFOs that are released under this program on <https://www.Grants.gov>.

#### 4. Eligible Expenses

Eligible expenses include activities involving research; innovation and development; demonstration, deployment, and evaluation; accelerated implementation and deployment of advanced digital construction management systems; evaluation; low or no emission vehicle component testing and research; and the Transit Cooperative Research Program.

#### 5. Requirements

Generally, the Government share of the cost of a project carried out under section 5312 shall not exceed 80 percent, except if there is substantial public interest or benefit, FTA may approve a greater Federal share. The non-Government share of the cost of a project carried out under section 5312 may be derived from in-kind contributions. If FTA determines that there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other agreement under this section, FTA shall establish a Government share of the costs of the project to be carried out under the grant, contract, cooperative agreement, or other agreement that is consistent with the benefit. However, for the Lo-No Component Testing Program, the Government share is 50 percent; the remaining 50 percent of the costs will be paid by amounts recovered through the fees established by the testing facilities. There is no match requirement for the TCRP.

Application instructions and program management guidelines are set forth in FTA Circular 6100.1E, Technology Development and Deployment, “*Research, Technical Assistance and Training Program: Application Instructions and Program Management Guidelines*” dated April 10, 2015. All research recipients are required to work

with FTA to develop approved Statements of Work.

Pursuant to the Small Business Innovation Development Act, a portion of the section 5312 funds must be set aside for the Department’s Small Business Innovation Research program to address high priority research that will demonstrate innovative, economic, accurate, and durable technologies, devices, applications, or solutions to significantly improve current transit-related service including transit vehicle operation, safety, infrastructure and environmental sustainability, mobility, rider experience, or broadband communication.

#### 6. Period of Availability

FTA establishes the period in which the funds must be obligated to the project. If the funds are not obligated within that period of time, they revert to FTA for reallocation under the program.

#### K. Technical Assistance and Workforce Development (49 U.S.C. 5314)

The Technical Assistance and Workforce Development program, 49 U.S.C. 5314, provides assistance to: (1) carry out technical assistance activities that enable more effective and efficient delivery of transportation services, foster compliance with Federal laws, and improve public transportation service; (2) develop standards and best practices for the transit industry; and (3) address public transportation workforce needs through research, outreach, training and the implementation of a frontline workforce grant program, and conduct training and educational programs in support of the public transportation industry.

For more information about the Technical Assistance and Workforce Development program, contact Mary Leary, Office of Research, Demonstration, and Innovation at 202–366–4052 or [mary.leary@dot.gov](mailto:mary.leary@dot.gov).

#### 1. Authorized Amounts

IJA authorizes \$61.98 million over five years for technical assistance. Of this amount, \$34.4 million is authorized for the National Transit Institute under section 5314(c).

#### 2. FY 2023 Funding Availability

In FY 2023, under the Consolidated Appropriations Act, 2023, \$19,588,846 is available for the Technical Assistance and Workforce Development program, as shown in the table below. The total apportioned for the formula program is \$12,872,820 after the deduction of \$6.7 million for National Transit Institute.

#### Technical Assistance and Workforce Development—FY 2022

|   |                             |
|---|-----------------------------|
| Technical Assistance, Standards Development & Human Resource Training ..... | \$19,588,846<br>(6,716,026) |
| National Transit Institute  |                             |
| Total Appropriated ....   | 12,872,820                  |

#### 3. Basis for Allocation of Funds

Under the appropriated amounts for section 5314, \$6.7 million is available for the National Transit Institute (NTI) in FY 2023. The remaining \$12.87 million of appropriated funds will be allocated in support of both FTA and USDOT strategic goals for technical assistance, standards development, and workforce development. Projects may be selected through Notices of Funding Opportunity (NOFO) or sole source cooperative agreements. Potential recipients can register to receive notification of NOFOs under this program on <https://www.Grants.gov>.

Once selected, FTA enters into cooperative agreements, contracts, or other agreements to award funds and manage the projects carried out under this section.

#### 4. Eligible Expenses

Eligible expenses include activities involving (a) technical assistance; (b) standards development; and (c) human resources and training, which includes workforce development programs and activities as well as supportive services. Supportive services are wraparound services that help individuals, and especially those from underrepresented and underserved groups, enroll in and successfully complete training. For more information on Supportive Services please go to: <https://www.transit.dot.gov/funding/grants/federal-transit-administration-fags-supportive-services>.

Eligible technical assistance activities may include activities to support: (a) compliance with the Americans with Disabilities Act (ADA); (b) compliance with coordinating planning and human services transportation; (c) meeting the transportation needs of elderly individuals; (d) increasing transit ridership in coordination with MPOs and other entities, particularly around transit-oriented development; (e) addressing transportation equity with regard to the effect that transportation planning, investment, and operations have for low-income and minority individuals; (f) facilitating best practices to promote bus driver safety; (g) compliance with Buy America and pre- and post-award audits; (h) assisting with the development and deployment of low

and no emission vehicles or components for vehicles; (i) and other technical assistance activities that are necessary to advance the interests of public transportation.

Eligible standards activities include the development of voluntary and consensus-based standards and best practices by the industry to include those needed for safety, fare collection, intelligent transportation systems, accessibility, procurement, security, asset management, operations, maintenance, vehicle propulsion, communications, and vehicle electronics.

Eligible human resources and training activities include (a) employment training programs; (b) outreach programs to increase employment for veterans, females, individuals with disabilities, and minorities in public transportation activities; (c) research on public transportation personnel and training needs; (d) training and assistance for veteran and minority business opportunities; and (e) consensus-based national training standards and certifications in partnership with industry stakeholders. FTA funding directly allocated for these eligible purposes must be done through a competitive frontline workforce development program as required in the authorization. Should FTA allocate funds for these purposes, it will advertise the available funding in a Notice of Funding Opportunity (NOFO) on <https://www.Grants.gov> and on its website. FTA will be issuing additional guidance in the coming months on how recipients can utilize their formula funds in support of these eligible activities.

#### 5. Requirements

Generally, the Government's share of the cost of a project carried out using a grant under section 5314 shall not exceed 80 percent. However, for the human resources and training, including the Innovative Public Transportation Frontline Workforce Development Program, the Government's share cannot exceed 50 percent. The Federal share for other types of awards will be stated in the agreement. In some cases, FTA may require a higher non-Federal share if FTA determines a recipient would obtain a clear and direct financial benefit from the project, or if the non-Federal share is an evaluation factor under a competitive selection process. There is no match requirement for the National Transit Institute.

Application instructions and program management guidelines are set forth in FTA Circular 6100.1E, *Research,*

*Technical Assistance and Training Program: Application Instructions and Program Management Guidelines* dated April 10, 2015.

Under 49 U.S.C. 5314(b)(4), recipients may use no more than 0.5 percent of their section 5307, 5337 and 5339 funds to support workforce development activities. In addition, 49 U.S.C. 5314(c)(4) allows recipients to use no more than 0.5 percent of their 5307, 5337, and 5339 funds to attend NTI training. Both provisions allow recipients to use these funds to pay up to 80 percent of the cost of training.

#### 6. Period of Availability

FTA establishes the period in which the funds must be obligated to the project. If the funds are not obligated within that period of time, they revert to FTA for reallocation under the program.

#### 7. Other Program Highlights

For more information about the NTI, contact Lisa Colbert, at the FTA Office of Research, Demonstration, and Innovation (TRI): [lisa.colbert@dot.gov](mailto:lisa.colbert@dot.gov) or call 202-366-9261.

#### L. Public Transportation Emergency Relief Program (49 U.S.C. 5324)

FTA's Emergency Relief (ER) Program is authorized to provide funding for public transportation expenses incurred as a result of an emergency or major disaster. The Consolidated Appropriations Act, 2023 (Pub. L. 117-328), appropriated \$213,905,338 for FTA's Emergency Relief Program for transit systems affected by major declared disasters occurring in calendar years 2017, 2020, 2021, and 2022. Costs related to the COVID-19 pandemic are not eligible for this funding. After the administrative takedown of 0.75 percent, FTA announced a Notice of Availability of Emergency Relief Funding (NAERF), the availability of \$212,301,048 in FY 2023.

In the event of a publicly declared emergency or disaster, eligible expenses will include emergency operating expenses, such as evacuations, rescue operations, and expenses incurred to protect assets in advance of a disaster, as well as capital projects to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system in the United States or on an Indian reservation that the Secretary determines is in danger of suffering serious damage or has suffered serious damage as a result of an emergency. Additional information on eligible expenses and the process for applying for ER Program funding can be found in FTA's *Emergency Relief*

*Manual: A Reference Manual for States & Transit Agencies on Response and Recovery from Declared Disasters and FTA's Emergency Relief Program (49 U.S.C. 5324)*, which was published on October 5, 2015.

Recipients of FTA funding affected by a declared emergency or disaster are authorized to use funds apportioned under sections 5307 and 5311 for emergency purposes. Recipients are advised that formula funds used for emergency purposes will not be replaced or restored with funding available through FTA under the ER Program or by the Federal Emergency Management Agency (FEMA).

In the event of a disaster affecting a public transportation system, the affected recipient should contact their FTA Regional Office as soon as practicable to determine whether Emergency Relief funds are available, and to notify FTA that it plans to seek reimbursement for emergency operations or repairs that have already taken place or are in process. If Emergency Relief funds are unavailable the recipient may seek reimbursement from FEMA. Properly documented costs for which the recipient has not received reimbursement from FEMA may later be reimbursed by grants made either from section 5324 funding (if appropriated) or sections 5307 and 5311 program funding, once the eligible recipient formally applies to FTA for reimbursement and FTA determines that the expenses are eligible for emergency relief.

In addition, before receiving a grant under this section following an emergency, the recipient shall: (1) submit documentation demonstrating proof of insurance required under Federal law for all structures related to the grant application; and (2) certify that the recipient has insurance required under State law for all structures related to the grant application.

Additional information about the Emergency Relief program is available on the FTA website at <https://www.transit.dot.gov/funding/grant-programs/emergency-relief-program>.

For more information, contact Tom Wilson, Office of Program Management, at 202-366-5279 or [thomas.wilson@dot.gov](mailto:thomas.wilson@dot.gov).

#### M. Public Transportation Safety Program (49 U.S.C. 5329)

Section 5329(e)(6) provides funding to support States with rail fixed guideway public transportation systems (rail transit systems) to develop and carry out State Safety Oversight (SSO) Programs consistent with the requirements of 49 U.S.C. 5329. For more information,

contact Maria Wright, Office of Safety Review at (202) 366-5922 or maria1.wright@dot.gov.

1. Authorized Amounts

A total of \$251.6 million is authorized over five years for the State Safety Oversight Program.

2. FY 2023 Funding Availability

Under the Consolidated Appropriations Act, 2023, \$49,066,231 is available for the State Safety Oversight (SSO) Formula program. The total apportioned for the formula program is \$50,416,539 after the addition of reappportioned funds, as shown in the table below.

**Public Transportation Safety Program—FY 2023**

|                                |                   |
|--------------------------------|-------------------|
| Total Appropriation .....      | \$49,066,231      |
| Reappportioned Funds ...       | 1,350,308         |
| <b>Total Apportioned .....</b> | <b>50,416,539</b> |

3. Basis for Formula Apportionment

FTA will continue to allocate funds to the States by an administrative formula, which is detailed in the **Federal Register** notice which apportioned the initial SSO Formula Grant Program funds (79 FR 13380). Grant funds for the SSO program are apportioned to eligible States using a three-tier formula based on statutory requirements, which apportion 60 percent of available funds based on rail transit system vehicle passenger miles (PMT), vehicle revenue miles (VRM), and directional route miles (DRM), 20 percent of available funds equally to each eligible State, and 20 percent based on the number of rail transit systems.

4. Requirements

FTA requires each applicant to demonstrate in its grant application that its proposed grant activities will develop, lead to, or carry out a State Safety Oversight program that meets the requirements under 49 U.S.C. 5329(e). Grant funds may be used for program operational and administrative expenses, including employee training activities. Please see the **Federal Register** notice (79 FR 13380) for more information.

IJA enhances State safety oversight programs by strengthening rail inspection practices by providing state safety oversight agencies authority to collect and analyze data and conduct risk-based inspections of rail fixed guideway transportation systems. Recipients may also use funds in support of the development and implementation of transmission-based

train control systems that enforce train speed regulation and ensure train separation and collision avoidance. FTA continues to be authorized to issue restrictions and prohibitions to address unsafe conditions or practices, and to withhold funds for non-compliance with safety requirements.

5. Period of Availability

SSO Formula Grant Program funds are available for the year of apportionment plus two additional years. Any FY 2023 funds that remain unobligated as of September 30, 2025, will revert to FTA for reappportionment under the SSO Formula Grant Program.

*N. State of Good Repair Program (49 U.S.C. 5337)*

The State of Good Repair (SGR) program provides capital assistance for maintenance, replacement, and rehabilitation projects of existing high intensity fixed guideway and high intensity motorbus systems to maintain a state of good repair. Additionally, SGR grants are eligible for developing and implementing Transit Asset Management plans. This program provides funding for the following fixed guideway transit modes: rapid rail (heavy rail), commuter rail, light rail, hybrid rail, monorail, automated guideway, trolleybus (using overhead catenary), aerial tramway, cable car, inclined plane (funicular), passenger ferry, and bus rapid transit. Fixed-route bus capital projects for services operating on high-occupancy-vehicle (HOV) facilities are also funded through the High Intensity Motorbus tier of this program. Of the amount authorized for section 5337 each year, \$300 million is set aside for the competitive Rail Vehicle Replacement Program.

FTA published the State of Good Repair program guidance, FTA Circular 5300.1, *State of Good Repair Grants Program: Guidance and Application Instructions*, on January 28, 2015.

For more information about the SGR program, contact Donna Iken, Office of Transit Programs, at (202) 366-0876 or donna.iken@dot.gov.

1. Authorized Amounts

IJA authorized \$18.39 billion over five years for the State of Good Repair program, including \$1.5 billion for the Rail Vehicle Replacement Program, and provided an additional \$4.75 billion in advance appropriations.

2. FY 2023 Funding Availability

Under the Consolidated Appropriations Act, 2023, \$4,537,778,037 is available for the State of Good Repair Program. The total

amount apportioned is \$4,183,665,069 after the deductions for oversight and transfers to OIG, the set-aside for the rail vehicle replacement program, and the addition of reappportioned funds as shown in the table below. Of the total amount apportioned, \$4,063,735,620 is apportioned to the High Intensity Fixed Guideway Formula and \$119,929,449 is apportioned to the High Intensity Motorbus Formula.

**State of Good Repair Formula Program—FY 2023**

|   |                      |
|---|----------------------|
| Total Appropriation .....   | \$4,537,778,037      |
| Oversight Deductions ...  | (54,782,780)         |
| Transfer to OIG .....   | (95,000)             |
| Reappportioned Funds ...  | 764,812              |
| <b>FY 2023 Rail Replacement Competitive Grant .....</b>                 | <b>(300,000,000)</b> |
| <b>Total Available to Apportion .....</b>                               | <b>4,183,665,069</b> |
| <b>Total Apportioned to High Intensity Fixed Guideway Formula .....</b> | <b>4,063,735,620</b> |
| <b>Total Apportioned to High Intensity Motorbus Formula</b>             | <b>119,929,449</b>   |

3. Basis for Formula Apportionment

FTA allocates State of Good Repair program funds according to a statutory formula. Funds are apportioned to urbanized areas with high intensity fixed guideway and high intensity motorbus systems that have been in operation for at least seven years. This means that only segments of high intensity fixed guideway and motorbus systems that entered into revenue service on or before September 30, 2015, are included in the formula, as identified in the NTD.

The law requires that 97.15 percent of the total amount authorized for the State of Good Repair program be apportioned to urbanized areas with “High Intensity Fixed Guideway” systems. The apportionments to urbanized areas with “High Intensity Fixed Guideway” systems are determined by two equal elements: (1) the proportion of the amount an urbanized area would have received in FY 2011 to the total amount apportioned to all urbanized areas in FY 2011 using new fixed guideway definition; and (2) the proportion of vehicle revenue miles of an urbanized area to the total vehicle revenue miles of all urbanized areas and the proportion of directional route miles of an urbanized area to the total directional route miles of all urbanized areas. High Intensity Motorbus systems will receive the remaining 2.85 percent of the total amount authorized for the State of Good

Repair program, and the apportionments to urbanized areas are based on vehicle revenue miles and directional route miles.

Vehicle revenue miles and directional route miles attributable to an urbanized area must be placed in revenue service at least 7 years before the first day of the fiscal year. A threshold level of more than one mile of high intensity fixed guideway is required in order to receive State of Good Repair funds. Therefore, urbanized areas reporting one mile or less of fixed guideway mileage under the NTD are not included. FTA will apportion funds to designated recipients in the UZAs (see section IV.C. of this notice for more information about designated recipients; FTA will apportion section 5337 funds to the section 5307 designated recipient for the UZA) with high intensity fixed guideway and/or high intensity motorbus systems operating at least 7 years. The designated recipients will then allocate funds as appropriate to recipients that are public entities in the urbanized areas and provide split letters to FTA. FTA can make grants to direct recipients after sub-allocation of funds.

4. Eligible Expenses

Eligible activities include projects that maintain, rehabilitate, and replace transit assets, as well as projects that implement Transit Asset Management plans. Additionally, training and workforce activities, including supportive services, authorized under 49 U.S.C. 5314(b) and (c) are eligible for the State of Good Repair funds; funds for such activities are limited to 1 percent of the total amount apportioned to the recipient (0.5 percent for each of the authorized activities). See section IV.K. of this notice for more information on workforce development activities.

5. Requirements

In addition to the program guidance found in the Circular, all recipients will need to certify that they will comply with the rule issued under section 5326 for the Transit Asset Management plan, 49 CFR part 625, and SGR projects will need to be included in recipients' Transit Asset Management plans.

6. Period of Availability

The State of Good Repair Program funds apportioned in this notice are available for obligation during FY 2023 plus three additional years. Accordingly, funds apportioned in FY 2023 must be obligated in grants by September 30, 2026. Any FY 2023 apportioned funds that remain unobligated at the close of business on September 30, 2026, will revert to FTA

for reapportionment under the State of Good Repair Program.

O. Grants for Buses and Bus Facilities Program (49 U.S.C. 5339)

The section 5339 program provides funding to replace, rehabilitate, and purchase buses and related equipment as well as construct bus-related facilities.

Additional guidance on the section 5339(a) formula program can be found in FTA Circular 5100.1, *Bus and Bus Facilities Program: Guidance and Application Instructions*, which was published on May 18, 2015. Information on the section 5339(b) Buses and Bus Facilities Competitive Grant Program and the section 5339(c) Low or No Emission Vehicle Program was published in a Notice of Funding Opportunity on January 27, 2023.

For more information about the Low or No Emission Vehicle Program and the Buses and Bus Facilities program, contact Margaretta Veltri, Office of Transit Programs at (202) 366-5094 or [margaretta.veltri@dot.gov](mailto:margaretta.veltri@dot.gov).

1. Authorized Amounts

IJA authorized a total of \$5.5 billion to be appropriated over five years for the Section 5339 Program. IJA provided an additional \$5.25 billion over five years in advance appropriations for the Section 5339(c) Low or No Emission Program.

2. FY 2023 Funding Availability

Under the Consolidated Appropriations Act, 2023, \$2,213,211,810 is available for Grants for Buses and Bus Facilities. Of this amount: \$613,179,354 is available for the Formula Grants for Buses and Bus Facilities Program after the deduction for oversight and the addition of reapportioned funds; \$469,445,424 is available for the Competitive Grants for Buses and Bus Facilities Program after the takedowns for oversight and the Low or No Emission grants; and \$1,151,681,178 (including advance appropriations) is available for the Low or No Emission Competitive Grants Program after the takedowns for oversight and transfer to the OIG. These amounts are detailed in the table below.

**5339(a) Formula Grants for Buses and Bus Facilities**

|   |                    |
|---|--------------------|
| Total FY 2023 Appropriation Available ..... | \$616,610,699      |
| Oversight Deduction .....                   | (4,624,580)        |
| Reapportioned Funds ...                     | 1,193,235          |
| <b>Total Apportioned ..</b>                 | <b>613,179,354</b> |

**Section 5339(b) Competitive Grants for Buses and Bus Facilities**

|  |                    |
|--|--------------------|
| Total FY 2023 Appropriation Available .....                  | 546,601,111        |
| Oversight Deduction .....                                    | (4,099,509)        |
| Less Section 5339(c) Low or No Emission Grants (Competitive) | (73,056,178)       |
| <b>Total Apportioned ..</b>                                  | <b>469,445,424</b> |

**Section 5339(c) Low or No Emission Grants (Competitive)**

|   |                      |
|---|----------------------|
| Total FY 2023 Available                     | 1,173,056,178        |
| Less FY 2023 Oversight and Admin .....      | (21,270,000)         |
| Less FY 2023 Transfer to OIG .....          | (105,000)            |
| <b>Total Available for Allocation .....</b> | <b>1,151,681,178</b> |

3. Basis for Allocation

Section 5339(a) Buses and Bus Facilities formula program funds are apportioned to States, territories, and designated recipients based on a statutory formula. Under the national distribution, each State is allocated \$4 million, and each territory is allocated \$1 million, for use anywhere in the State or territory. The remainder of the available funding is then apportioned for UZAs based on population, vehicle revenue miles and passenger miles using the same apportionment formula and allocation process as section 5307. Funds for UZAs under 200,000 in population are apportioned to the State through a section 5339(a) Governor's apportionment for allocation to eligible recipients within such areas of the State at the Governor's discretion. Funds for UZAs with populations of 200,000 or more are apportioned directly to one or more designated recipients within each UZA for allocation to eligible projects and recipients within the UZA.

4. Eligible Expenses

Eligible capital projects under the Buses and Bus Facilities formula program (section 5339(a)) continue to include projects to replace, rehabilitate, and purchase buses and related equipment, and projects to construct bus-related facilities. Recipients may use up to one-half of one percent of their section 5339 funds to support workforce development activities, including supportive services, at an 80 percent Federal share; the eligible workforce development activities are defined in section 5314; see section IV.K. of this notice for more information. This provision is in addition to the one-half of one percent that recipients may use for training

activities with the National Transit Institute.

5. Requirements

Eligible recipients of the Buses and Bus Facilities formula program (section 5339(a)) include designated recipients that operate fixed route bus service or that allocate funding to fixed route bus operators; and State or local governmental entities that operate fixed route bus service that are eligible to receive direct grants under the Urbanized Area Formula (section 5307) and Rural Formula (section 5311) programs. Eligible subrecipients continue to include public agencies or private nonprofit organizations engaged in public transportation, including those providing services open to a segment of the general public, as defined by age, disability, or low income.

The requirements of section 5307 apply to recipients of section 5339 funds within an urbanized area. The requirements of section 5311 apply to recipients of section 5339 funds within rural areas. For additional program requirements, refer to FTA Circular 5100.1, *Bus and Bus Facilities Program: Guidance and Application Instructions*.

6. Period of Availability

The Buses and Bus Facilities Formula Program funds apportioned in this notice are available for obligation during FY 2023 plus three additional years. Accordingly, funds apportioned in FY 2023 must be obligated in grants by September 30, 2026. Any FY 2023 apportioned funds that remain unobligated at the close of business on September 30, 2026, will revert to FTA for reapportionment under the Buses and Bus Facilities Formula Program.

Discretionary program funds authorized under section 5339(b) and (c) (Bus and Low No, respectively) follow the same period of availability: year of allocation to a project plus three additional years.

*P. Growing States and High-Density States Formula Factors (49 U.S.C. 5340)*

IJA continues the use of formula factors to distribute additional funds to the section 5307 and section 5311 programs for Growing States and High-Density States. FTA will continue to publish single urbanized and rural apportionments that show the total amount for section 5307 and 5311 programs that includes section 5340 apportionments for these programs.

a. Authorized Amounts

IJA authorized \$3.879 billion over five years for the Growing States and High-Density States Formula factors.

FY 2023 Funding Availability

In FY 2023, \$756,523,955 is authorized and appropriated for apportionment in accordance with the formula factors prescribed for Growing States and High-Density States set forth in section 5340 for FY 2023.

**Growing States and High-Density States Formula Factors—FY 2023**

|                                |               |
|--------------------------------|---------------|
| 5340 High Density States ..... | \$355,566,259 |
| 5340 Growing States ....       | 400,957,696   |
| Total Apportioned .....        | 756,523,955   |

b. Basis for Formula Apportionment

Under the Growing States portion of the section 5340 formula, FTA projects each State's 2025 population by comparing each State's apportionment year population (as determined by the Census Bureau) to the State's 2010 Census population and extrapolating to 2025 based on each State's rate of population growth between 2010 and the apportionment year. Each State receives a share of Growing States funds on the basis of its projected 2025 population relative to the nationwide projected 2025 population.

Once each State's share is calculated, funds attributable to that State are divided into an urbanized area allocation and a non-urbanized area allocation on the basis of the percentage of each State's 2010 Census population that resides in urbanized and non-urbanized areas. Urbanized areas receive portions of their State's urbanized area allocation on the basis of the 2010 Census population in that urbanized area relative to the total 2010 Census population in all urbanized areas in the State. These amounts are added to the Urbanized Area's section 5307 apportionment. The States' rural area allocation is added to the allocation that each State receives under the section 5311 Formula Grants for Rural Areas program.

The High-Density States portion of the section 5340 formula are allocated to urbanized areas in States with a population density equal to or greater than 370 persons per square mile. Based on this threshold and 2010 Census data, the States that qualify in FY 2023 are Maryland, Delaware, Massachusetts, Connecticut, Rhode Island, New York and New Jersey. The amount of funds provided to each of these seven States is allocated on the basis of the population density of the individual State relative to the population density of all seven States. Once funds are allocated to each State, funds are then allocated to urbanized areas within the

States on the basis of an individual urbanized area's population relative to the population of all urbanized areas in that State.

*Q. Washington Metropolitan Area Transit Authority Grants*

1. Authorized Amounts

Section 601(f) of the Passenger Rail Investment and Improvement Act of 2008, as amended by IIJA, authorized \$150 million per year for each of fiscal years of 2022 through 2030 for capital and preventive maintenance grants to the Washington Metropolitan Area Transit Authority (WMATA).

2. FY 2023 Funding Availability

Under the Consolidated Appropriations Act, 2023, \$150,000,000 is available. The total amount available is \$148,500,000 after the deduction for oversight as shown in the table below.

**Washington Metropolitan Area Transit Authority Grants—FY 2023**

|                           |               |
|---------------------------|---------------|
| Total Appropriation ..... | \$150,000,000 |
| Oversight Deduction ..... | (1,500,000)   |
| Total Apportioned .....   | 148,500,000   |

3. Period of Availability

Funds appropriated for WMATA under the Consolidated Appropriations Act, 2023, shall remain available until expended.

For more information about WMATA grants, contact Kevin Osborn, Office of Transit Programs, at (202) 366-7519 or [kevin.osborn@dot.gov](mailto:kevin.osborn@dot.gov).

*R. Transit Infrastructure Grants—Community Project Funding/Congressionally Directed Spending*

For more information about Community Project Funding grants, contact Amy Volz, Office of Transit Programs, at (202) 366-7484 or [amy.volz@dot.gov](mailto:amy.volz@dot.gov).

1. Appropriated Amounts

The Consolidated Appropriations Act, 2023, appropriated \$360,459,324 for Community Project Funding/Congressionally Directed Spending for 125 projects in 31 States, identified in the accompanying Joint Explanatory Statement. Table 20 identifies the recipient, project, amount and a project ID that will be used to identify the project in TrAMS.

**Community Project Funding/Congressionally Directed Spending—FY 2023**

|                         |               |
|-------------------------|---------------|
| Total Appropriated .... | \$360,459,324 |
|-------------------------|---------------|

## 2. Period of Availability

Funds remain available until expended. Recipients are, however, encouraged to apply for these funds by the end of FY 2026. First time grant recipients should contact the relevant Regional Office for assistance to initiate steps to become a FTA recipient.

## 3. Requirements

As the Consolidated Appropriations Act, 2023 specifies that funds are available for projects and activities eligible under chapter 53, generally applicable chapter 53 requirements apply to these funds, including the planning requirements of sections 5303 and 5304; bus testing requirements of section 5318; general provision requirements of section 5323 (such as Buy America compliance); contract requirements of section 5325; project management requirements of section 5327; nondiscrimination requirements of section 5332; disposition requirements of section 5334; and applicability of FTA oversight of section 5338, as well as the National Environmental Policy Act (NEPA) and related requirements.

Unlike in FY 2022, Community Project Funding/Congressionally Directed Spending projects funded by the Consolidated Appropriations Act, 2023 will receive a maximum Federal share of 80 percent of the net costs of the project. Non-Federal match of 20 percent is required for these funds.

Upon written request by the recipient named in table 20 and a proposed pass-through recipient, FTA may approve another entity to act as the direct recipient of the funding and the named recipient may serve as a subrecipient. Pre-award authority is provided consistent with the requirements for FTA's formula funds as of the date all necessary requirements were met (see section V, below.) However, before incurring costs, recipients are strongly encouraged to consult with the appropriate FTA Regional Office regarding the eligibility of the project for future FTA funds and for questions on environmental requirements, or any other Federal requirements that must be met before incurring pre-award costs.

## V. FTA Policy and Procedures for FY 2023 Grants

### A. Automatic Pre-Award Authority To Incur Project Costs

#### 1. Caution to New Recipients

While FTA provides pre-award authority to incur expenses before grant award for formula programs, it recommends that first-time grant

recipients not utilize this automatic pre-award authority without verifying with the appropriate FTA Regional Office that all pre-requisite requirements have been met. Commonly, a new recipient may misunderstand pre-award authority conditions and be unaware of all the applicable FTA requirements that must be met in order to be reimbursed for project expenditures incurred in advance of grant award. FTA programs have specific statutory requirements that are often different from those for other Federal grant programs with which new recipient may be familiar. If costs are incurred for an ineligible project or activity, or for an eligible activity but at an inappropriate time (e.g., prior to NEPA completion), FTA will be unable to reimburse the project sponsor, and, in certain cases, the entire project may be rendered ineligible for FTA assistance.

## 2. Policy

FTA provides pre-award authority to incur expenses before grant award for certain program areas described below. This pre-award authority allows recipients to incur certain project costs before grant approval and retain the eligibility of those costs for subsequent reimbursement after grant approval. The recipient assumes all risk and is responsible for ensuring that all conditions are met to retain eligibility. This pre-award spending authority permits an eligible recipient to incur costs on an eligible transit capital, operating, planning, or administrative project without prejudice to possible future Federal participation in the cost of the project. In this notice, FTA continues to provide pre-award authority through the authorization period of IJA (October 1, 2022, through September 30, 2026) for capital assistance under all formula programs, so long as the conditions described below are met. Pre-award authority is indicated in the application. The actual items of cost associated with the use of pre-award authority are documented in the initial Federal Financial Report (FFR) that is required to be completed prior to the recipient executing the award. FTA provides pre-award authority for planning and operating assistance under the formula programs without regard to the period of the authorization. For projects funded by competitive programs, pre-award authority may be granted at the time of project selection unless otherwise noted. All pre-award authority is subject to conditions and triggers stated below:

#### a. Operating, Planning, or Administrative Assistance

FTA does not impose additional conditions on pre-award authority for operating, planning, or administrative assistance under the formula grant programs. Recipients may be reimbursed for expenses incurred before grant award so long as funds have been expended in accordance with all Federal requirements, costs would have been allowable if incurred after the date of award, and the recipient is otherwise eligible to receive the funding. In addition to cross-cutting Federal grant requirements, program specific requirements must be met. Designated recipients of section 5310 funds have pre-award authority for the ten percent of the apportionment for program administration.

#### b. Transit Capital Projects

For transit capital projects, the date that costs may be incurred varies depending on the type of activity and its potential to have a significant impact on the human and natural environment as described in section 3., *Conditions*, below.

#### c. Public Transportation Innovation, Technical Assistance and Workforce Development

Unless provided for in an announcement of project selections, pre-award authority does not apply to section 5312 Public Transportation Innovation projects or section 5314 Technical Assistance and Workforce Development projects. Before an applicant may incur costs for activities under these programs, it must first obtain a written Letter of No Prejudice (LONP) from FTA.

For more information, contact Lisa Colbert, at the FTA Office of Research, Demonstration, and Innovation (TRI): [lisa.colbert@dot.gov](mailto:lisa.colbert@dot.gov) or call 202-366-9261.

## 3. Conditions

The conditions under which pre-award authority may be utilized are specified below:

- i. Pre-award authority is not a legal or implied commitment that the subject project will be approved for FTA assistance or that FTA will obligate Federal funds. Furthermore, it is not a legal or implied commitment that all items undertaken by the applicant will be eligible for inclusion in the project.
- ii. All FTA statutory, procedural, and contractual requirements must be met.
- iii. No action will be taken by the recipient that prejudices the legal and administrative findings that FTA must make in order to approve a project.

iv. Local funds expended by the recipient after the date of the pre-award authority will be eligible for credit toward local match or reimbursement if FTA later makes a grant or grant amendment for the project. Local funds expended by the recipient before the date of the pre-award authority will not be eligible for credit toward local match or reimbursement. Furthermore, the expenditure of local funds or the undertaking of certain activities that would compromise FTA's ability to comply with Federal environmental laws (e.g., project implementation activities such as land acquisition, demolition, or construction before the date of pre-award authority) may render the project ineligible for FTA funding.

v. The Federal amount of any future FTA assistance awarded to the recipient for the project will be determined on the basis of the overall scope of activities and the prevailing statutory provisions with respect to the Federal/local match ratio at the time the funds are obligated.

vi. For funds to which the pre-award authority applies, the authority expires with the lapsing of the fiscal year funds.

vii. When a grant for the project is subsequently awarded, the grant and the Federal Financial Report in TrAMS must indicate the use of pre-award authority and an initial Federal Financial Report must be submitted in TrAMS to associate those costs with the award.

viii. Environmental Requirements—All Federal grant requirements must be met at the appropriate time for the project to remain eligible for Federal funding. Designated recipients may incur costs for design and environmental review activities for all formula funded projects from the date of the authorization of the formula funds or for discretionary funded projects other than those funded by the Capital Investment Grants (CIG) program from the date of the announcement of the competitive allocation of funds for the project.

For projects that qualify for a categorical exclusion (CE) pursuant to 23 CFR 771.118(c), designated recipients may start activities and incur costs under pre-award authority for property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials from the date of the authorization of formula funds or the date of the announcement of competitive allocations for the project.

FTA recommends that a grant applicant considering a CE pursuant to 23 CFR 771.118(c) contact the appropriate FTA Regional Office for assistance in determining the proper

environmental review process, including other applicable environmental laws, and level of documentation necessary before incurring the above-mentioned costs. This applies especially when the grant applicant believes a c-list CE with construction activities, such as 23 CFR 771.118(c)(8), (9), (10), (12), or (13), applies to its project or if a grant applicant intends to acquire property through the use of pre-award authority. If FTA subsequently finds that a project does not qualify for a CE under 23 CFR 771.118(c) and the sponsor has already undertaken activities under pre-award authority that are only allowable for projects that qualify for a CE under 23 CFR 771.118(c), the project will be ineligible for FTA assistance.

For all other non-CIG projects that do not qualify for a CE under 23 CFR 771.118(c), grant applicants may take action and incur costs for property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials from the date that FTA completes the environmental review process required by NEPA and its implementing regulations, 23 U.S.C. 139, and other environmental laws, by its issuance of a 23 CFR 771.118(d) CE determination, a finding of no significant impact (FONSI), a combined final environmental impact statement (FEIS)/record of decision (ROD), or a ROD.

ix. Planning and other requirements—Formula funds must be authorized, or appropriated, and competitive project allocations published or announced before pre-award authority can be considered.

The requirements that a capital project be included in a locally adopted Metropolitan Transportation Plan, the Metropolitan Transportation Improvement Program, and the federally approved Statewide Transportation Improvement Program (23 CFR part 450) must be satisfied before the recipient may advance the project beyond planning and preliminary design with non-Federal funds under pre-award authority. If the project is located within an EPA-designated non-attainment or maintenance area for air quality, the conformity requirements of the Clean Air Act, 40 CFR part 93, must also be met before the project may be advanced into implementation-related activities under pre-award authority triggered by the completion of the NEPA process. For a planning project to have pre-award authority, the planning project must be included in an MPO-approved UPWP that has been coordinated with the State.

x. Federal procurement procedures, as well as the whole range of applicable Federal requirements (e.g., Buy America, Davis-Bacon Act, and Disadvantaged Business Enterprise), must be followed for projects in which Federal funding will be sought in the future. Failure to follow any such requirements could make the project ineligible for Federal funding. In short, the administrative flexibility requires a recipient to make certain that no Federal requirements are circumvented.

xi. All program specific requirements must be met. For example, projects under section 5310 must comply with specific program requirements, including coordinated planning.

Before incurring costs, recipients are strongly encouraged to consult with the appropriate FTA Regional Office regarding the eligibility of the project for future FTA funds and for questions on environmental requirements, or any other Federal requirements that must be met.

#### 4. Pre-Award Authority for the Fixed Guideway Capital Investment Grants Program

Projects proposed for section 5309 Capital Investment Grant (CIG) program funds are required to follow a multi-step, multi-year process defined in law. For New Starts and Core Capacity projects, this process includes three phases: project development (PD), engineering, and construction. For Small Starts projects, this process includes two phases: PD and construction. After receiving a letter from the project sponsor requesting entry into the PD phase, FTA must respond in writing within 45 days whether the information was sufficient for entry. If FTA's correspondence indicates the information was sufficient and the New Starts, Small Starts or Core Capacity project enters PD, FTA extends pre-award authority at that time to the project sponsor to incur costs for PD activities. PD activities include the work necessary to complete the environmental review process and as much engineering and design activities as the project sponsor believes are necessary to support the environmental review process. Upon completion of the environmental review process with a Record of Decision (ROD), Finding of No Significant Impact (FONSI), or Categorical Exclusion (CE) determination by FTA for a New Starts, Small Starts, or Core Capacity Improvement project, FTA extends pre-award authority to project sponsors to incur costs for as much engineering and design as needed to develop a reasonable cost estimate and financial

plan for the project, utility relocation, and real property acquisition and associated relocations for any property acquisitions not already accomplished as a separate project for hardship or protective purposes or right-of-way under 49 U.S.C. 5323(q).

For Small Starts projects, upon completion of the environmental review process and confirmation from FTA that the overall project rating is at least a Medium, FTA extends pre-award authority for vehicle purchases. Upon receipt of a letter notifying a New Starts or Core Capacity project sponsor of the project's approval into the engineering phase, FTA extends pre-award authority for vehicle purchases as well as any remaining engineering and design, demolition, and procurement of long lead items for which market conditions play a significant role in the acquisition price. The long lead items include, but are not limited to, procurement of rails, ties, and other specialized equipment, and commodities.

Please contact the appropriate FTA Regional Office for a determination of activities not listed here, but which meet the intent described above. FTA provides this pre-award authority in recognition of the long-lead time and complexity involved with purchasing vehicles as well as their relationship to the "critical path" project schedule. FTA cautions recipients that do not currently operate the type of vehicle proposed in the project about exercising this pre-award authority. FTA encourages these sponsors to wait until later in the process when project plans are more fully developed. FTA reminds project sponsors that the procurement of vehicles must comply with all Federal requirements including, but not limited to, competitive procurement practices, the Americans with Disabilities Act, and Buy America. FTA encourages project sponsors to discuss the procurement of vehicles with FTA in regard to Federal requirements before exercising pre-award authority. Because there is not a formal engineering phase for Small Starts projects, FTA does not extend pre-award authority for demolition and procurement of long lead items. Instead, this work must await receipt of a construction grant award or an expedited grant agreement.

#### a. Real Property Acquisition

FTA extends pre-award authority for the acquisition of real property and real property rights for CIG projects (New or Small Starts or Core Capacity) upon completion of the environmental review process for that project. The environmental review process is completed when FTA signs a combined

FEIS/ROD, ROD, FONSI or makes a CE determination. With the limitations and caveats described below, real estate acquisition may commence, at the project sponsor's risk. To maintain eligibility for a possible future FTA grant award, any acquisition of real property or real property rights must be conducted in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and its implementing regulations, 49 CFR part 24. This pre-award authority is strictly limited to costs incurred: (i) to acquire real property and real property rights in accordance with the URA regulation, and (ii) to provide relocation assistance in accordance with the URA regulation. This pre-award authority is limited to the acquisition of real property and real property rights that are explicitly documented in the draft environmental impact statement (DEIS), FEIS, environmental assessment (EA), or CE document, as needed for the selected alternative that is the subject of the FTA-signed ROD or FONSI, or CE determination. This pre-award authority regarding property acquisition that is granted at the completion of the environmental review process does not cover site preparation, demolition, or any other activity that is not strictly necessary to comply with the URA, with one exception—namely when a building that has been acquired, has been vacated and awaits demolition poses a potential fire safety hazard or other hazard to the community in which it is located or is susceptible to reoccupation by unauthorized occupants. Demolition of the building is also covered by this pre-award authority upon FTA's written agreement that the adverse condition exists. Pre-award authority for property acquisition is also provided when FTA makes a CE determination for a protective buy or hardship acquisition in accordance with 23 CFR 771.118(d)(3). Pre-award authority for property acquisition is also provided when FTA completes the environmental review process for the acquisition of right-of-way as a separate project in accordance with 49 U.S.C. 5323(q). When a tiered environmental review in accordance with 23 CFR 771.111(g) is used, pre-award authority is not provided upon completion of the first-tier environmental document except when the Tier-1 ROD or FONSI signed by FTA explicitly provides such pre-award authority for a particular identified acquisition. Project sponsors should use pre-award authority for real property acquisition relocation assistance with a clear understanding

that it does not constitute a funding commitment by FTA. FTA provides pre-award authority upon completion of the environmental review process for real property acquisition and relocation assistance for displaced persons and businesses in accordance with the requirements of the URA.

#### b. Reimbursement of Costs Incurred Under Pre-Award Authority

Although FTA provides pre-award authority for property acquisition, long lead items, and vehicle purchases upon completion of the environmental review process, FTA does not generally award Federal funding for these activities conducted under pre-award authority until the project receives a CIG program construction grant. This is to ensure that Federal funds are not risked on a project whose advancement into construction is not yet assured.

#### c. National Environmental Policy Act (NEPA) Activities

NEPA requires that major projects proposed for FTA funding assistance be subjected to a public and interagency review of the need for the project, its environmental and community impacts, and alternatives to avoid and reduce adverse impacts. Projects of more limited scope also need a level of environmental review, to determine whether there are significant environmental impacts or confirmation that a CE applies. FTA's regulation titled "Environmental Impact and Related Procedures," at 23 CFR part 771 states that the costs incurred by a grant applicant for the preparation of environmental documents requested by FTA are eligible for FTA financial assistance (23 CFR 771.105(f)). Accordingly, FTA extends pre-award authority for costs incurred to comply with NEPA regulations and to conduct NEPA-related activities, effective as of the earlier of the following two dates: (1) the date of the Federal approval of the relevant STIP or STIP amendment that includes the project or any phase of the project, or that includes a project grouping under 23 CFR 450.216(j) that includes the project; or (2) the date that FTA approves the project into the project development phase of the CIG program. The grant applicant must notify the appropriate FTA Regional Office upon initiation of the Federal environmental review process consistent with 23 CFR 771.111. NEPA-related activities include, but are not limited to, public involvement activities, historic preservation reviews, section 4(f) evaluations, wetlands evaluations, and endangered species consultations. This pre-award authority

is strictly limited to costs incurred to conduct the NEPA process and associated engineering, and to prepare environmental, historic preservation and related documents. When a New Starts, Small Starts, or Core Capacity project is granted pre-award authority for the environmental review process, the reimbursement for NEPA activities conducted under pre-award authority may be sought at any time through section 5307 (Urbanized Area Formula Program) or the flexible highway programs (e.g., Surface Transportation Program or Congestion Mitigation and Air Quality Improvement Program). Reimbursement from the section 5309 CIG program for NEPA activities conducted under pre-award authority is provided only for expenses incurred after entry into the project development phase and only once a construction grant agreement is signed. FTA reimbursement for costs incurred is not guaranteed and recipients may not start activities and incur costs under pre-award authority for property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials until the environmental review process is complete.

For more information about FTA's National Environmental Policy Act (NEPA) activities, contact Megan Blum, Office of Environmental Programs, at (202) 366-0463 or [megan.blum@dot.gov](mailto:megan.blum@dot.gov).

#### d. Other CIG Project Activities Requiring Letter of No Prejudice (LONP)

Except as discussed in paragraphs i through iii above, a CIG project sponsor must obtain a written LONP from FTA before incurring costs for any activity not covered by pre-award authority. To obtain an LONP, an applicant must submit a written request accompanied by adequate information and justification to the appropriate FTA Regional Office, as described in C. Letter of No Prejudice (LONP) Policy, below.

For more information about the Fixed Guideway Capital Investment Grants program, including LONP policy, real property acquisition, and reimbursement of costs incurred under Pre-Award Authority, contact Elizabeth Day, Office of Capital Project Development, at (202) 366-5159 or [elizabeth.day@dot.gov](mailto:elizabeth.day@dot.gov).

#### e. Pre-Award Authority for the Expedited Project Delivery (EPD) Pilot Program

The EPD Pilot Program, as authorized by section 3005(b) of the Fixing America's Surface Transportation Act (FAST Act), is aimed at expediting delivery of new fixed guideway capital

projects, small starts projects, or core capacity improvement projects. Section 3005(b) requires FTA to notify Congress and the applicant, in writing, within 120 days after the receipt of a complete application, on the decision of project selection. FTA will extend pre-award authority for all eligible project costs at the time it is announced that a project has been selected. There is no pre-award authority provided until a project selection announcement is made, and costs incurred prior to project selection are not eligible. Letters of No Prejudice will not be provided for the EPD Pilot Program, as all eligible costs are covered by pre-award authority at the time of project selection.

Although FTA provides pre-award authority for eligible project costs, FTA does not award Federal funding for activities conducted under pre-award authority until the project receives an EPD Pilot Program construction grant. This is to ensure that Federal funds are not risked on a project whose advancement into construction is not yet assured. To maintain eligibility for a possible future FTA grant award, any acquisition of real property or real property rights must be conducted in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and its implementing regulations, 49 CFR part 24.

For more information about the Expedited Project Delivery Pilot Program, contact Elizabeth Day, Office of Capital Project Development, at (202) 366-5159 or [elizabeth.day@dot.gov](mailto:elizabeth.day@dot.gov).

#### B. FY 2023 Annual List of Certifications and Assurances

Section 5323(n) requires FTA to publish annually a list of all certifications required under Chapter 53 concurrently with the publication of this annual apportionment notice. The FY 2023 version of FTA's Certifications and Assurances is available on FTA's website at <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>.

FTA cannot make an award or an amendment to an award unless the recipient has executed the latest version of FTA's Certifications and Assurances. FTA encourages recipients of formula funding to execute the FY 2023 Certifications and Assurances electronically in TrAMS within 90 days of this notice, to prevent delays.

#### C. Letter of No Prejudice (LONP) Policy

##### 1. Policy

LONP authority allows an applicant to incur costs on a project utilizing non-Federal resources, with the understanding that the costs incurred subsequent to the issuance of the LONP may be reimbursable as eligible expenses or eligible for credit toward the local match should FTA approve the project at a later date. LONPs are applicable to projects and project activities not covered by automatic pre-award authority. The majority of LONPs will be for section 5309 CIG program projects undertaking activities not covered under automatic pre-award authority. LONPs may be issued for formula funds beyond the life of the current authorization or FTA's extension of automatic pre-award authority; however, the LONP is limited to a five-year period, unless otherwise authorized in the LONP, or otherwise extended. Receipt of Federal funding under any program is not implied or guaranteed by an LONP.

##### 2. Conditions and Federal Requirements

The conditions and requirements for pre-award authority specified in section V.4.ii and V.4.iii above apply to all LONPs for the CIG program. Because project implementation activities may not be initiated before completion of the environmental review process, FTA will not issue an LONP for such activities until the environmental review process has been completed with a combined FEIS/ROD, ROD, FONSI, or CE determination.

##### 3. Request for LONP

Before incurring costs for project activities not covered by automatic pre-award authority, the project sponsor must first submit a written request for an LONP, accompanied by adequate information and justification, to the appropriate Regional Office and obtain written approval from FTA. FTA approval of an LONP is determined on a case-by-case basis. Federal funding under the CIG program is not implied or guaranteed by an LONP. Specifically, when requesting an LONP, the applicant shall provide the following items:

a. Description of the activities to be covered by the LONP.

b. Justification for advancing the identified activities. The justification should include an accurate assessment of the consequences to the project scope, schedule, and budget should the LONP not be approved.

c. Allocated level of risk and contingency for the activity requested.

#### D. Civil Rights Requirements

Recipients must ensure their programs and services operate in a nondiscriminatory manner and fulfill reporting requirements to document their civil rights compliance as a condition to receiving Federal funds.

**Americans With Disabilities Act (ADA) of 1990:** Recipients must carry out provisions of the ADA, related provisions in section 504 of the Rehabilitation Act of 1973, as amended, and the Department of Transportation's implementing regulations at 49 CFR parts 27, 37, 38, and 39. FTA's ADA Circular 4710.1, *Americans With Disabilities Act Guidance*, provides guidance for implementing the regulatory requirements of the ADA. As public entities, recipients may also be subject to Department of Justice regulations implementing Title II of the ADA (28 CFR part 35); in addition, as employers, recipients may be subject to Equal Employment Opportunity Commission regulations implementing the employment titles of the ADA (29 CFR part 1630).

In addition, recipients must regularly prepare and submit in TrAMS civil rights program plans and reports to establish and demonstrate compliance and document policies and practices in the following areas:

**Title VI of the Civil Rights Act of 1964:** The Department of Transportation's title VI implementing regulations are found in 49 CFR part 21. FTA's Title VI Circular 4702.1B, *Title VI Requirements and Guidelines for Federal Transit Administration Recipients*, provides guidance for carrying out the regulatory requirements and outlines the Title VI program requirements and timeline for submitting updates.

**Disadvantaged Business Enterprise (DBE) program:** The Department of Transportation's DBE implementing regulations are found in 49 CFR part 26 and set forth requirements for implementing the DBE program in good faith and developing and reporting on the triennial DBE goal.

**Title VII of the Civil Rights Act of 1964, Equal Employment Opportunity (EEO):** The Department of Transportation's EEO implementing regulations are found in 49 CFR part 21. FTA's EEO Circular 4704.1A *Equal Employment Opportunity (EEO) Act Guidance*, provides guidance for carrying out the regulatory requirements and outlines the EEO program submission process.

Recipients are expected to maintain current civil rights program plans and submit required reports in TrAMS.

Recipients with past due or expired programs are ineligible for new funding awards and may be subject to other remedies or sanctions at FTA's discretion.

While not new requirements, recipients are specifically reminded of the following:

- Recipients awarding more than \$250,000 in FTA-funded contracts must comply with the Disadvantaged Business Enterprise (DBE) regulations, including by implementing a DBE program that creates a level playing field for DBEs to compete on FTA-funded projects. The recipient must conduct outreach to and consultation with small businesses, women-owned businesses, and minority-owned businesses; apply DBE goals as needed when exercising pre-award authority; and verify the DBE compliance of transit vehicle manufacturers before purchasing transit vehicles.

- Recipients in urbanized areas of 200,000 or more in population and with 50 or more fixed-route vehicles in peak service must conduct a service equity analysis for all service changes that meet the recipient's definition of "major service change" prior to implementing the service change. Those recipients also must conduct a fare equity analysis for all fare increases or decreases prior to implementing a fare change.

Furthermore, an environmental justice analysis is not a substitute for a Title VI service equity analysis triggered by a major service change or fare change. When a full equity analysis is not required due to the size of the recipient or duration of a change, FTA expects agencies to take steps to ensure changes are equitable and nondiscriminatory.

Recipients are encouraged to reach out to FTA's Office of Civil Rights when contemplating new projects, new services, or new service models for technical assistance and guidance, to support recipients in achieving their equity and accessibility goals and complying with Federal civil rights requirements.

For more information, contact the Office of Civil Rights at [FTACivilRightsSupport@dot.gov](mailto:FTACivilRightsSupport@dot.gov).

#### E. Consolidated Planning Grants

The Consolidated Planning Grants (CPG) Program allows States and Metropolitan Planning Organizations (MPOs) to merge funds from the FTA Metropolitan Planning Program and State Planning and Research Program (SPRP) with FHWA Planning and SPRP funds into a single consolidated planning grant. Transferred planning funds can be awarded and administered by either FTA or FHWA. The CPG

eliminates the need to monitor individual fund sources, if several have been used, and ensures that the oldest funds will always be used first.

Under the CPG, States can report metropolitan planning program expenditures to comply with the Uniform Administrative Requirements, 2 CFR part 200, subpart E, for both FTA and FHWA under the Catalogue of Federal Domestic Assistance number for FTA's Metropolitan Planning Program (20.505). Additionally, for States with an FHWA Metropolitan Planning fund-matching ratio greater than 80 percent, the State can waive the 20 percent local share requirement, with FTA's concurrence, to allow FTA funds used for metropolitan planning in a CPG to be granted at the higher FHWA sliding scale rate. For some States, this Federal match rate can exceed 90 percent.

States interested in transferring planning funds between FTA and FHWA should contact the FTA Regional Office or FHWA Division Office for more detailed procedures. *FHWA Order 4551.1* dated August 12, 2013, on "Fund Transfers to Other Agencies and Among Title 23 Programs" (<https://www.fhwa.dot.gov/legsregs/directives/orders/45511.cfm>) provides guidance and more detailed information.

For further information on CPGs, contact Ann Souvandara, Office of Budget and Policy, FTA, at (202) 366-0649 or [ann.souvandara@dot.gov](mailto:ann.souvandara@dot.gov); or Ryan Long, Office of Planning and Environment at (215) 656-7051 or [ryan.long@dot.gov](mailto:ryan.long@dot.gov).

#### F. Grant Application Procedures

All applications are filed electronically. FTA continues to award and manage grants and cooperative agreements using the Transit Award Management System (TrAMS). To access TrAMS, contact your FTA Regional Office. Resources on using TrAMS can be found on FTA's website at <https://www.transit.dot.gov/TrAMS>.

FTA regional staff are responsible for working with potential recipients to review and process grant applications. In order for an application to be considered complete and for FTA to assign a Federal Award Identification Number (FAIN), enabling submission in TrAMS, and submission to the Department of Labor (when applicable), the following requirements must be met:

- Applicants must be registered and have an "active status" in the System for Award Management (SAM) and its registration is current. To register an entity or check the status and renew registration, visit the SAM website at <https://www.sam.gov/SAM>.

ii. Applicant's contact information is correct and up to date.

iii. Applicant has properly submitted its annual certifications and assurances.

iv. Applicant's Civil Rights submissions are current and approved.

v. Recipient has a Transit Asset Management plan in place that meets the requirements of 49 CFR part 625 or is covered by a compliant Group Plan.

vi. Documentation is on file to support status as either a designated recipient (for the program and area) or a direct recipient.

vii. Funding is available, including any flexible funds included in the budget, and split letters or suballocation letters on file, where applicable, to support amount being applied for in grant application.

viii. The activity is listed in a currently approved Transportation Improvement Program (TIP); Statewide Transportation Improvement Program (STIP), or Unified Planning Work Program (UPWP) unless such requirements have been waived for the specific funding and activity type to facilitate response and recovery from the COVID-19 public health emergency.

ix. All eligibility issues are resolved.

x. Required environmental findings are made.

xi. The application contains a well-defined scope of work including at least one project with accompanying project narratives, budget that includes scope codes and activity line-item information, Federal and non-Federal funding amounts, and milestones.

xii. Major Capital Projects as defined by 49 CFR part 633 Project Management Oversight must document that FTA has reviewed the project management plan and provided approval.

xiii. Milestone information is complete. FTA will also review status of other open grant reports to confirm financial and milestone information is current on other open awards.

xiv. Applicant has ensured that it has registered to report to the National Transit Database, and that any subrecipients that provide public transportation service have also registered to report to the National Transit Database.

xv. FTA must provide Congressional notification before awarding competitive grants.

Other important issues that impact FTA grant processing activities are discussed below.

#### a. Award Budgets—Scope Codes and Activity Line Items (ALI) Codes; Financial Purpose Codes

FTA uses the Scope and Activity Line Item (ALI) Codes in the award budgets

to track program trends, to report to Congress, and to respond to requests from the Inspector General and the Government Accountability Office (GAO), as well as to manage grants. The accuracy of the data is dependent on the careful and correct use of codes. ALI codes should contain information on quantities (e.g., the number of vehicles) related only to the funding identified for that ALI code.

#### b. Designated and Direct Recipients Documentation

For its formula programs, FTA primarily apportions funds to the Designated Recipient in the large UZAs (areas over 200,000), or for areas under 200,000 (small UZAs and rural areas), it apportions the funds to the Governor, or the Governor's designee (e.g., State DOT). Depending on the program and as described in the individual program sections found in section IV of this notice, further suballocation of funds may be permitted to eligible recipients who may then apply directly to FTA for the funding as direct recipients.

For the programs in which FTA can make grants to eligible direct recipients, other than the designated recipients, recipients are reminded that documentation must be on file to support the (1) status of the recipient either as a designated recipient or direct recipient; and (2) the allocation of funds to the direct recipient.

Documentation to support existing designated recipients for the UZA must also be on file at the time of the first application in FY 2023. Suballocation letters (also called split letters or governor's apportionment letters) must also be on file to support grant applications from direct recipients. Once suballocation letters for FY 2023 funding are finalized they should also be uploaded as part of the application into TrAMS.

The Direct Recipient is required to upload to TrAMS a copy of the suballocation letter indicating the allocation of funding for the appropriate fund program when the applicant transmits its application for initial review. The suballocation letter must be signed by the Designated Recipient, or as applicable in accordance with local planning requirements. If there are two Designated Recipients, both entities must sign the suballocation letter. The suballocation letter must: (1) specify the allocations to the respective Direct Recipients listed in the letter; (2) incorporate language above the signatories to reflect this agreement; and (3) make clear that the Direct Recipient will assume all responsibility associated with the award for the funds. When

drafting the suballocation letter, Designated Recipients may use the template language below:

“As identified in this Letter, the Designated Recipient(s) authorize(s) the reassignment/reallocation of [enter fund source, e.g., section 5307 funds] to the Direct Recipient(s) named herein. The undersigned agree to the amounts allocated/reassigned to each Direct Recipient. Each Direct Recipient is responsible for its application to the Federal Transit Administration to receive such funds and assumes the responsibilities associated with any award for these funds.”

#### 1. Payments

Once a grant has been awarded and executed, requests for payment can be processed. To process payments FTA uses ECHO-Web, an internet accessible system that provides recipients the capability to submit payment requests on-line, as well as receive user-IDs and passwords via email. New applicants should contact the appropriate FTA Regional Office to obtain and submit the registration package necessary for set-up under ECHO-Web.

#### 2. Oversight

FTA is responsible for conducting oversight activities to help ensure that grant recipients use FTA Federal financial assistance in a manner consistent with their intended purpose and in compliance with regulatory and statutory requirements. Each Urbanized Area Formula Program recipient is reviewed every three years, (FTA's Triennial Review); and States and statewide public transportation agencies are reviewed periodically to assess the management practices and program implementation of FTA statewide programs (e.g., Planning, Rural Areas, Enhanced Mobility of Seniors and Individuals with Disabilities Programs). Other more detailed reviews are scheduled based on an annual recipient oversight assessment. Important objectives of FTA's oversight program include but are not limited to: determining recipient compliance with Federal requirements; identifying technical assistance needs and delivering technical assistance to meet those needs; spotting emerging issues with recipients in a forward-looking fashion; recognizing when there is a need for more in-depth reviews in the areas of procurement, financial management, and civil rights; and identifying recipients with recurring or systemic issues.

### 3. Technical Assistance

As noted throughout the notice, FTA continues to rely on several of the existing program circulars for general program guidance. FTA is continuing to update the program circulars, with an opportunity for notice and comment where warranted, to reflect amendments to chapter 53 of title 49, U.S.C. made by IIJA. In the meantime, if you have any questions, please do not hesitate to contact FTA. FTA headquarters and regional staff will be pleased to answer your questions and provide any technical assistance you may need to apply for FTA program funds and manage the grants you receive. At its discretion, FTA may also use program oversight consultants to provide technical assistance to recipients on a case-by-case basis. This notice and the program guidance circulars previously identified in this document may be accessed via the FTA website at <https://www.transit.dot.gov/>.

#### G. Grant Management

##### 1. Grant Reporting

Recipients of FTA funds are reminded that all FTA recipients are required to report on their grants and that it is critical to ensure reports demonstrate that reasonable progress is being made on the project. At a minimum, all awards require a Federal Financial Report (FFR) and a Milestone Progress Report (MPR) on an annual basis, with some reports required quarterly or monthly depending on the recipient and the type of projects funded under the grant. The requirements for these reports and other reporting requirements can be found in FTA Circular 5010.1E, *Grant Management Requirements*, dated July 16, 2018. FTA staff, auditors, and contractors rely on the information provided in the FFR and MPR to review and report on the status of both financial and project-level activities contained in the grant. It is critical that recipients provide accurate and complete information in these reports and submit them by the required due date. Failure to report or demonstrate reasonable progress on projects can result in suspension or premature close-out of a grant.

##### 2. Inactive Grants and Grant Closeout

In FY 2023, FTA will continue to focus on inactive grants and grants that do not comply with reporting requirements. If appropriate, FTA will take action to close out and deobligate funds from these grants if reasonable progress is not being made. The efficient use of funds will further FTA's fulfillment of its mission to provide

efficient and effective public transportation systems for the nation.

At the end of Federal Fiscal Year 2023, FTA will identify the list of grants that were awarded on or prior to September 30, 2020, have had no funds disbursed or have not had a disbursement since September 30, 2022. FTA Regional Offices will contact grant recipients with grants that meet these criteria to notify them that FTA intends to close the grant and deobligate any remaining funds unless the recipient can provide information that demonstrates that the projects funded by the grant remain active and the recipient has a realistic schedule to expedite completion of the projects funded in the grant.

3. Transportation Investments Generating Economic Recovery (TIGER), Better Utilizing Investments To Leverage Development (BUILD) and Rebuilding American Infrastructure With Sustainability and Equity (RAISE) Discretionary Grants

Recipients of open TIGER, BUILD and RAISE grants should be aware that, as a matter of law, all remaining TIGER funds must be disbursed from grants by the end of the fifth fiscal year after the Expiration of Obligation Authority. (See, 31 U.S.C. 1552.) For FTA TIGER VII projects, that deadline was extended to the end of FY 2023. For FTA TIGER VIII projects, that deadline is the end of FY 2024. Accordingly, once ECHO closes for disbursements in late September 2023 (September 2024 for TIGER VIII), all undisbursed funds within FTA TIGER VII-funded grants will no longer be available to the recipient. These undisbursed funds will be deobligated from the grant. Even if a recipient has incurred costs or disbursed funds prior to the close of ECHO, if the recipient has not actually drawn down the funds by the time ECHO closes, FTA will be unable to reimburse the recipient. Therefore, recipients with open TIGER VIII grants must ensure project activities are completed and all funds are drawn down before ECHO closes by late September 2024 (September 2023 for TIGER VII).

For more information about the Transportation Investments Generating Economic Recovery (TIGER), Better Utilizing Investments to Leverage Development (BUILD) and Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Discretionary Grants program, contact Victor Waldron, Office of Transit Programs at (202) 366-5183 or [victor.waldron@dot.gov](mailto:victor.waldron@dot.gov).

The contents of this document do not have the force and effect of law and are

not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. Recipients should refer to applicable regulations and statutes referenced in this document.

**Nuria I. Fernandez,**

*Administrator.*

[FR Doc. 2023-07761 Filed 4-13-23; 8:45 am]

**BILLING CODE 4910-57-P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2022-0111 (Notice No. 2022-14)]

#### Hazardous Materials: Request for Feedback on Recycled Plastics Policy

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

**ACTION:** Notice; request for information.

**SUMMARY:** PHMSA is publishing this notice to: (1) solicit information pertaining to how the potential use of recycled plastic resins in the manufacturing of specification packagings may affect hazardous materials transportation safety; (2) ensure transparency of its current policy pertaining to the use of recycled plastics in the manufacturing of specification packagings; (3) seek input on this policy to better inform potential regulatory changes; and (4) gather information for the evaluation of future approval requests and to better inform decisions pertaining to potential regulatory revisions and other related work.

**DATES:** Interested parties are invited to submit comments on or before July 13, 2023. Comments received after that date will be considered to the extent possible.

**ADDRESSES:** You may submit comments identified by the Docket Number PHMSA-2022-0111 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 1-202-493-2251.
- *Mail:* Docket Management System; U.S. Department of Transportation, West Building Ground Floor, Room W12-140, Routing Symbol M-30, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Docket Management System; Room W12-140 on the ground floor of the West Building, 1200 New