

**STATE MANAGEMENT PLAN  
FOR SECTIONS 5310, 5311, and 5339  
ASSISTANCE TO  
SMALL URBANIZED & RURAL AREAS**

**STATE OF NEVADA**



**Nevada Department of Transportation  
Multimodal Planning Division  
1263 South Stewart Street  
Carson City, Nevada 89712  
775-888-7312**

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# Table of Contents

<b>Background and Introduction</b> .....	<b>1</b>
Authorizing Federal Legislation .....	1
State Program Responsibility .....	1
<b>A. Program Goals and Objectives</b> .....	<b>2</b>
A.1 Section 5310 .....	2
A.2 Section 5311 .....	2
A.3 Section 5339 .....	3
<b>B. Roles and Responsibilities</b> .....	<b>3</b>
B.1 Section 5310 .....	3
B.2 Section 5311 .....	4
B.3 Section 5339 .....	5
<b>C. Coordination</b> .....	<b>6</b>
<b>D. Eligible Subrecipients</b> .....	<b>7</b>
D.1.A 5310 Traditional 5310 Projects .....	7
D.1.B Eligible Subrecipients for Other Section 5310 Projects .....	7
D.2 Section 5311 .....	8
D.3 Section 5339 .....	8
<b>E. Eligible Services and Service Areas</b> .....	<b>8</b>
E.1 Section 5310 .....	8
E.2 Section 5311 .....	8
E.3 Section 5339 .....	9
E.4 Meal Delivery for Homebound Individuals .....	9
E.5 Incidental Use .....	9
<b>F. Eligible Assistance Categories</b> .....	<b>10</b>
F.1 Section 5310 .....	10
F.2 Section 5311 .....	10
F.3 Section 5339 .....	14
<b>G. Local Share and Local Funding Requirements</b> .....	<b>16</b>
G.1 Section 5310 .....	16
G.2 Section 5311 .....	17
G.3 Section 5339 .....	19
<b>H. Project Selection Criteria and Method of Distributing Funds</b> .....	<b>19</b>
H.1 Project Selection and Funding Distribution .....	19
H.2 Statewide Transit Program Dispute/Resolution/Appeal Process .....	21

<b>I. Intercity Bus Transportation (Section 5311(f)).....</b>	<b>23</b>
<b>J. Annual Program of Project Development and Approval Process .....</b>	<b>23</b>
J.1 Project Solicitation, Notice of Availability .....	23
J.2 One-Year Grant Funding Cycle .....	24
J.3 Period of Performance.....	24
J.4 Data Universal Numbering System (DUNS).....	24
J.5 Annual Grant Submission and Program of Projects (POP).....	24
J.6 Revisions to Program of Project/Subrecipient Budget Revisions.....	25
J.7 Annual Calendar of Events.....	25
J.8 Sections 5310, 5311, and 5339 Public Notice Requirements.....	27
J.9 Public Hearing Requirement, if Requested .....	27
J.10 Minimum Public Meeting Requirements for Any Action Requiring a Public Meeting .....	28
J.11 The FTA Certifications and Assurances .....	28
J.12 Pre-Agreement Verification and Pre-Award Audits .....	29
J.13 Written Code of Conduct.....	29
<b>K. Fund Transfers .....</b>	<b>29</b>
K.1 Section 5310.....	29
K.2 Section 5311.....	29
K.3 Section 5339.....	30
<b>L. State Administration and Technical Assistance .....</b>	<b>30</b>
L.1 State Administration and Technical Assistance.....	30
L.2 Planning and the Statewide Transportation Planning Public Participation Process .....	31
L.3. Public Participation Process .....	33
L.4 Management of the FTA Grants at the Local Level and Good Standing .....	34
<b>M. State RTAP.....</b>	<b>34</b>
M.1 Required Participation in the NDOT-Sponsored Training Workshops .....	35
<b>N. Private Sector Participation .....</b>	<b>36</b>
<b>O. Civil Rights .....</b>	<b>36</b>
O.1 Title VI .....	37
O.2 EEO Plans.....	38
O.3 Nevada’s DBE Program.....	38
O.4 Nondiscrimination Based on Sex.....	40
O.5 Nondiscrimination Based on Age .....	40
O.6 Nondiscrimination Based on Disability .....	41
O.7 Nondiscrimination Laws, Regulations, Requirements, and Guidance .....	41

<b>P. Maintenance</b> .....	<b>42</b>
P.1 General and Vehicle Maintenance .....	42
P.2 Ridership and Maintenance Program (RMP) (April 2015).....	43
P.3 Facilities .....	43
<b>Q. Charter Rule</b> .....	<b>44</b>
<b>R. Section 504 and ADA Reporting</b> .....	<b>44</b>
R.1 Section 504 .....	44
R.2 Americans with Disabilities Act (ADA) .....	45
<b>S. National Transit Data (NTD) Reporting</b> .....	<b>46</b>
<b>T. State Program Management</b> .....	<b>47</b>
T.1 Procurement.....	47
T.2 Financial Management of Subrecipients.....	55
T.3 Property Management.....	60
T.4 Maintenance and Disposition.....	60
T.5 State of Nevada Accounting Systems .....	61
T.6 Resolution of Audit Findings .....	62
T.7 Closeout of Projects/Grants.....	63
T.8 Record Retention.....	63
T.9 Subrecipient Monitoring (Sections 5310, 5311, 5339) .....	65
<b>U. Other Provisions</b> .....	<b>67</b>
U.1 Labor and Section 5333(b) Warranty .....	67
U.2 Buy America .....	67
U.3 Pre-Award and Post-Delivery Reviews.....	68
U.4 Prohibition of Exclusive School Transportation .....	69
U.5 Drug and Alcohol Testing Including State Procedures for Monitoring Compliance by Subrecipients.....	69
U.6 Safety and Security .....	70
U.7 Public Transportation Safety Certification Training Program for Federal and State Personnel.....	72
U.8 The FTA’s Safety Authority .....	73
U.9 Protection of the Environment/Environmental Justice.....	73
U.10 Clean Air Act.....	74
U.11 Nevada CDL Requirements.....	75
U.12 Debarment and Suspension .....	75
Suspension and Debarment.....	77
U.13 Davis-Bacon Act .....	77

U.14 Restrictions on Lobbying .....	79
U.15 Trafficking in Persons.....	79
U.16 Federal “\$1 Coin” Requirements.....	79
U.17 Motor Carrier Safety and U.S. FMCSA Requirements .....	79
U.18 Safe Operation of Motor Vehicles .....	80
U.19 Protection of Sensitive Security and Other Sensitive Information .....	81
U.20 Discovery and Invention/Patent Rights.....	81
<b>V. Transit Asset Management (TAM).....</b>	<b>81</b>
<b>W. State Management Plan Revisions .....</b>	<b>82</b>

## **BACKGROUND AND INTRODUCTION**

### **Authorizing Federal Legislation**

The Federal Transit Act, as amended, includes formula grant programs for the Sections 5310, 5311, and 5339 programs. The Federal Transit Act has been reauthorized by Congress under the Fixing America's Surface Transportation Act (FAST Act), which was signed into law by President Barack Obama on December 4, 2015. The effective date of the legislation was October 1, 2015 and authorizes the Federal transit programs for five years (Federal Fiscal Years 2016-2020), through September 30, 2020.

Title 49 U.S.C. 5310 authorizes the formula assistance program for the Enhanced Mobility of Seniors and Individuals with Disabilities Program (Section 5310) and provides formula funding to States and designated recipients to improve mobility for seniors and individuals with disabilities. Program guidance can be found in the FTA Circular 9070.1G, <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/enhanced-mobility-seniors-and-individuals-disabilities>), which was issued on July 7, 2014.

The Federal Transit Act, as amended, also includes a formula grant program for rural areas known as Section 5311. The Section 5311 program (Title 49 U.S.C. 5311) provides financial assistance to States for capital, administrative, and operating expenses to rural areas for local public transportation services. The FTA Section 5311 Program Guidance Circular (the FTA Circular 9040.1G, <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/formula-grants-rural-areas-program-guidance-and-application>) was issued by the FTA on November 24, 2014. This grant program also includes the Rural Technical Assistance Program (RTAP) and the Intercity Bus Program (5311(f)).

A formula grant program to assist eligible recipients in financing capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities is included in the Federal Transit Act (USC Title 49, Chapter 53), as amended, known as Section 5339. The FTA apportions Bus Program funds for urbanized areas to the States and designated recipients, which are responsible for receiving and apportioning the FTA funds to eligible projects, and applying for funds on behalf of all eligible subrecipients within the applicable urbanized area or rural areas. The FTA will apportion the funds to existing Section 5307 or new Section 5339 designated recipients for large urbanized areas and to the States for all areas under 200,000 population. It is codified at 49 U.S.C. 5339 and program guidance can be found in the FTA C 5100.1 Circular ([https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Final\\_FTA\\_C\\_5100\\_4-16-15.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Final_FTA_C_5100_4-16-15.pdf)) which was issued on May 18, 2015.

### **State Program Responsibility**

The Governor of Nevada has designated the Nevada Department of Transportation (the NDOT) as the State's administering agency for the FTA Sections 5310, 5311, and 5339 programs. The

NDOT Multimodal Planning Division, Transit Office is responsible for the day-to-day program and fiscal management and oversight.

This combined State Management Plan (SMP) documents the State's objectives, policies, procedures, and administrative requirements for all three Federal programs, including the distribution and oversight of Federal funds to assist public, Tribal, private for-profit and private nonprofit passenger transportation systems operating throughout the State, in a form that is readily accessible to the NDOT staff, the FTA, subrecipients, potential subrecipients, and the public. It is reviewed on a periodic basis to ensure that any new Federal regulations are reflected in the plan. It is more thoroughly revised every six years, upon re-authorization of the Federal transportation funding bill.

*Note: In this document, the terms grantee, subgrantee, applicant, and subrecipient are used interchangeably depending upon the language and circumstances in the FTA Circulars or Master Agreement and refer to the entities applying to the NDOT for funding under one or more of the FTA programs .*

## **A. PROGRAM GOALS AND OBJECTIVES**

### **A.1 Section 5310**

The NDOT's goal for administering the Section 5310 program is to promote the availability of cost effective, efficient, and coordinated passenger transportation services that meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable. Projects selected for these funds are derived from locally developed, coordinated public transit-human services transportation plans. The NDOT's statewide plan identifies the transportation needs of individuals with disabilities, seniors and people with low incomes and provides strategies for meeting those needs.

With the implementation of MAP-21, the NDOT's annual Section 5310 allocation was reduced significantly since this legislation directed Section 5310 funds to large urbanized areas. The NDOT, however, continues to receive and administer Federal funds under the Section 5310 program in the rural areas of the State and for the small urbanized areas with population between 50,000 and 200,000.

The NDOT uses its Section 5310 allocation primarily to purchase handicapped accessible paratransit vehicles classified as traditional Section 5310 projects as outlined in C 9070.1G.

### **A.2 Section 5311**

The Section 5311 program's purpose is to support public transportation for people living in any area outside of an urbanized area, i.e., rural areas, as designated by the U.S. Bureau of the Census. However, because the program's goal is to enhance the overall mobility of people living in rural areas, Section 5311 projects may also include transportation to or from rural areas. It is important to note that areas not within an urbanized area as of the 2010 U.S. Census, but are included within the metropolitan area planning boundary, which includes the surrounding area

(expected to be urbanized within twenty years and/or the air quality nonattainment boundary), are also eligible for Section 5311 funding.

The NDOT's Section 5311 program goals are to:

- ◆ Enhance the access of Nevada citizens located in nonurbanized areas to health care, shopping, education, employment, public services and recreation;
- ◆ Assist in the maintenance, development, improvement and the use of public transportation systems in the rural;
- ◆ Encourage and facilitate the most efficient use of all Federal funds used to provide passenger transportation in nonurbanized areas through the coordination of programs and services;
- ◆ Assist the development and support of the intercity bus transportation;
- ◆ Encourage employment-related transportation alternatives; and
- ◆ Provide for the participation of private transportation providers in nonurbanized transportation to the maximum extent feasible.

### **A.3 Section 5339**

The Bus and Bus Facilities Program provides Federal funding for capital bus and bus-related projects to support the continuation and expansion of public transportation services in the United States. States can, in turn, use these capital funds to supplement their Section 5307 (funding specifically for use in urbanized areas) and Section 5311 Programs. The NDOT uses its annual FTA Section 5339 funding allocation for bus and facility projects. Specifically, the NDOT exercises its discretion to use Section 5339 funds for eligible Section 5311 capital projects and to meet Transit Asset Management (TAM) Requirements (See [Section V](#) on Page 79). The NDOT's goal for this program is to maximize available funding in a cost-effective manner to meet Section 5311 capital needs and maintain the statewide fleet in a State of Good Repair so that it can be used to provide efficient, reliable, and safe service. All capital projects, regardless of funding source, are subject to the NDOT's eligibility priorities. Additionally, the NDOT uses only Section 5339 funds for transit facility and facility renovation projects.

## **B. ROLES AND RESPONSIBILITIES**

### **B.1 Section 5310**

The Governor of Nevada, in accordance with 49 USC 5310, has designated the NDOT as the agency to receive and administer Federal funds under the Section 5310 program for the rural areas of the State and for the small urbanized areas with population between 50,000 and 200,000.

In Nevada, there is only one small urbanized area, the Carson Area Metropolitan Planning Organization (CAMPO). While the NDOT is the designated recipient of the Section 5310 funds, CAMPO receives and manages Section 5310 funds and conducts both the project application and selection processes independent of the NDOT. Additional information is available at (<http://carson.org/how-do-i/find/public-transportation>).



In the urbanized areas of Washoe and Clark Counties (Regional Transportation Commission (RTC) of Washoe County (<https://www.rtcwashoe.com/>) and Regional Transportation Commission (RTC) of Southern Nevada (<http://www.rtcnv.com/>), respectively), the Governor has designated the MPOs as the recipients of the Section 5310 funds for these areas. These agencies use their own project selection and prioritization process. For projects in these two areas, please contact the MPOs directly. For projects in the Tahoe Area, please contact the Tahoe Regional Planning Agency (TRPA) (<http://www.trpa.org/>).

The NDOT's role in the Section 5310 program is to:

- ◆ Document the State's procedures for utilizing the Section 5310 funds in the State Management Plan (SMP);
- ◆ Notify the public regarding program availability and solicitation of applications;
- ◆ Develop the Transit element of the State Transportation Improvement Program (STIP);
- ◆ Develop project selection and application review processes;
- ◆ Ensure compliance with Federal and State requirements by all subrecipients;
- ◆ Monitor project activities, fiscal management, project audits, and closeouts;
- ◆ Plan for future transportation needs and coordination throughout the State;
- ◆ Certify that all projects are derived from a locally developed, coordinated public transit/human service transportation plan developed and approved through a process that includes participation by seniors; individuals with disabilities; representatives of public, private, and nonprofit transportation and human service providers; and other members of the public;
- ◆ Certify that, to the maximum extent feasible, services funded under Section 5310 are coordinated with transportation services assisted by other Federal departments and agencies;
- ◆ Ensure that at least 55 percent of the area's apportionment is used for traditional Section 5310 projects carried out by the eligible subrecipients as described in the FTA Circular C9070.1G ([www.transit.dot.gov/sites/fta.dot.gov/files/docs/C9070\\_1G\\_FINAL\\_circular\\_4-20-15%281%29.pdf](http://www.transit.dot.gov/sites/fta.dot.gov/files/docs/C9070_1G_FINAL_circular_4-20-15%281%29.pdf)); and
- ◆ Oversee projects and close outs.

## **B.2 Section 5311**

To the extent permitted by law, the FTA gives each State maximum discretion in designing and managing the Section 5311 program to meet its rural public transportation needs. Where possible, the FTA defers to Nevada's development of program standards, criteria, procedures and policies to provide the State with the flexibility it needs to standardize its management of the FTA funding and related State programs to best meet the transportation needs of Nevada's rural areas.

The Governor designated the NDOT as the agency responsible for the administration of the Section 5311 program. Specifically, the NDOT's role is to:

- ◆ Document the State's procedures in a State Management Plan (SMP);
- ◆ Notify eligible local entities of the availability of the program;

- ◆ Solicit applications;
- ◆ Develop the Transit element of the State Transportation Improvement Program (STIP);
- ◆ Develop project selection criteria;
- ◆ Review and select projects for approval;
- ◆ Develop and submit an annual program of projects and grant application to the FTA;
- ◆ Certify eligibility of applicants and project activities;
- ◆ Ensure compliance with Federal and State requirements by all subrecipients;
- ◆ Monitor local project activities;
- ◆ Oversee project audit and closeout and fiscal management;
- ◆ Plan for future transportation needs and ensure integration and coordination among diverse transportation modes and providers; and
- ◆ File a National Transit Database (NTD) report each year for each subrecipient.

The NDOT will exercise adequate oversight to ensure that only eligible activities receive Federal assistance and that subrecipients meet Federal requirements. In addition to other responsibilities in administering the Section 5311 program, the NDOT will:

- ◆ Provide appropriate technical assistance for rural areas;
- ◆ Ensure that there is a fair and equitable distribution of program funds within the State, including funds to Native American tribes;
- ◆ Ensure a process whereby private transit operators are provided an opportunity to participate, including private providers of public transportation services, through service agreements with operators of public transportation services or as grantees;
- ◆ Expend funds for the support of intercity bus transportation to the extent required by law; and
- ◆ Provide for maximum feasible coordination of public transportation services assisted by the FTA with transportation services assisted by other Federal programs.

The NDOT Multimodal Planning Division's Transit Section participates in corridor and long-range planning studies to ensure that the needs of rural transit providers are represented and needed projects are developed. In addition, the NDOT transit staff works with current subrecipients to ensure that planning and long-range needs are met. Plan development is achieved with formal participation from other State agencies, regional and local governments, local transportation entities and the public.

### **B.3 Section 5339**

The Governor of Nevada, in accordance with 49 USC 5339, has designated the NDOT as the agency to receive and administer the rural statewide Federal funds under this program for capital assistance. The NDOT is also the designated recipient of Section 5339 funds for the small urbanized areas with populations between 50,000 and 200,000. In Nevada, there is only one small urbanized area, the Carson Area Metropolitan Planning Organization (CAMPO). The NDOT allows CAMPO to conduct a project application and selection process for its Section 5339 funds.

Some of the NDOT's responsibilities as the designated Section 5339 recipient include but are not limited to:

- ◆ Documenting the State’s procedures in the State Management Plan (SMP);
- ◆ Issuing a notice to the public regarding program availability and solicitation of applications;
- ◆ Developing the Transit element of the State Transportation Improvement Program (STIP);
- ◆ Developing project selection and application review processes;
- ◆ Ensuring compliance with Federal and State requirements by all subrecipients;
- ◆ Monitoring project activities, fiscal management, project audits and closeouts;
- ◆ Supplementing 5311 programs funds for capital projects;
- ◆ Ensuring that funds are maximized for the development and implementation of capital projects; and
- ◆ Using funds to meet Transit Asset Management goals.

### **C. COORDINATION**

This section is applicable to the Sections 5310, 5311, and 5339 programs.

Coordination is key to developing strong and effective transportation networks within local communities. A comprehensive approach to planning and managing transit services will enable communities to identify how coordination would assist them in making the best use of their resources and strengthen their programs.

Title 49 U.S.C. 5310, as amended by MAP-21 and continuing under the FAST Act, requires a recipient of the FTA Section 5310 funds to certify that projects selected for funding under this program are included in a locally-developed, coordinated public transit-human service transportation plan that was developed and approved through a process that included participation by seniors; individuals with disabilities; representatives of public, private, nonprofit transportation and human service providers; and other members of the public. This plan requires an extensive public participation and stakeholder consultation. Plan updates are required every three years with the next update scheduled for 2018.

The Nevada Coordinated Human Services Transportation Plan has been developed to include each Nevada region. Inclusion in a locally developed, coordinated public transit-human services transportation plan is required for the FTA Section 5310 program and strongly encouraged for Section 5311 program participants. The Nevada Coordinated Human Services Transportation Plan focuses on the transportation needs of individuals with disabilities, older adults, and people with low incomes throughout rural Nevada. Complimentary plans are prepared by the Metropolitan Planning Organizations for Clark and Washoe Counties, CAMPO, and TRPA.

An important goal is to provide the opportunity for a diverse range of stakeholders with a common interest in human services transportation to collaborate on how best to provide transportation services for these targeted populations. Specifically, the stakeholders are called to identify service needs, gaps, barriers, and to identify potential solutions for meeting transportation needs. Stakeholder outreach and participation is a key element to the development of this plan and its updates. Input is solicited from all current transit providers. Public meetings are held across the State.

The NDOT expects public transit systems to participate in the local and regional planning processes for the initial as well as in the updates to the coordinated public transit–human service transportation plans by attending all local and regional meetings and providing input, expertise, and support. These meetings are intended to provide opportunities for coordination and to determine the transportation priorities for the region. The NDOT requires Section 5311 and Section 5339 applicants to describe their on-going coordination efforts in their respective applications for program funding. Failure to attend the coordinated public transit-human service transportation plan meetings by these applicants may be taken into consideration in the NDOT’s funding decisions.

## **D. ELIGIBLE SUBRECIPIENTS**

### **D.1.A 5310 Traditional 5310 Projects**

Section 5310(b) provides that, of the amounts apportioned to States and designated recipients, not less than 55 percent shall be available for traditional Section 5310 projects—those public transportation capital projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, unavailable, or inappropriate. Further, the law provides that, for these projects, a recipient may allocate the funds apportioned to it to:

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

These provisions, found at 49 U.S.C. 5310(b)(1) and (b)(2) essentially maintain the status quo for traditional Section 5310 projects.

Governmental authorities eligible to apply for Section 5310 funds as “coordinators of services for seniors and individuals with disabilities” are those designated by the State to coordinate human service activities in an area. Examples of such eligible governmental authorities are a county agency on aging or a public transit provider which the State has identified as the lead agency to coordinate transportation services funded by multiple Federal or State human service programs.

### **D.1.B Eligible Subrecipients for Other Section 5310 Projects**

Eligible subrecipients for other eligible Section 5310 activities include a State or local governmental authority, a private nonprofit organization, or an operator of public transportation that receives a Section 5310 grant indirectly through a recipient.

## **D.2 Section 5311**

Eligible recipients/subrecipients or grantees include States and local governmental authorities, nonprofit organizations, and public transportation or intercity bus service operators that receive the FTA grant funds indirectly through a recipient. Eligible nonprofit organizations may also serve tribal transportation needs. In the case of intercity bus projects, private for-profit operators of transit services or intercity bus services may participate in the program as third-party contractors for direct recipients, or as subrecipients. Specifically, the NDOT eligible subrecipients include:

- ◆ State or local governmental authorities;
- ◆ Nonprofit organizations;
- ◆ Native American tribes; and
- ◆ Private, for-profit operators of transit service may participate in the program, provided there are no other public transportation operators.

The NDOT may limit subrecipient eligibility requirements to comply with State laws or to further the State's program goals, at its discretion.

## **D.3 Section 5339**

Eligible recipients/subrecipients include:

- ◆ State or local governmental authorities;
- ◆ Nonprofit organizations;
- ◆ Native American tribes; and
- ◆ Private, for-profit operators of transit service may participate in the program, as third-party contractors with the State or other eligible subrecipients.

The NDOT may at its discretion and in accordance with the FTA guidance limit subrecipient eligibility requirements to comply with State laws or to further the State's program goals.

## **E. ELIGIBLE SERVICES AND SERVICE AREAS**

### **E.1 Section 5310**

The NDOT adheres to the FTA Section 5310 program circular—the FTA C 9070.1G—and does not impose any additional limitations to the program regarding eligible services and service areas. However, the NDOT does prioritize the purchase of ADA-accessible vehicles.

### **E.2 Section 5311**

The NDOT adheres to the FTA Section 5311 program circular—the FTA C 9040.1G—and does not impose any additional limitations to the program regarding eligible services and service areas. Eligible Section 5311 services include any transportation service provided by bus, shared-ride taxi, or other publicly or privately-owned conveyance that serves the public on a regular basis in primarily nonurbanized areas. Eligible projects may constitute an entire public transit

system, a service or function within that service, or an individual route or route segment. Service may include transportation to and from urbanized areas. However, such services should not include both pick-up and discharge operations wholly within the urbanized area, particularly if the urbanized area is served by public transit. If Section 5311 funds are used in a joint urbanized and nonurbanized project, Section 5311 funds must be used primarily to assist the nonurbanized portion of the project. Urbanized/Nonurbanized services should be coordinated whenever possible (i.e., drop-offs/transfers from demand response providers at the urbanized fixed route stops).

Services not eligible for assistance include any exclusive taxi service and service to individuals or groups which exclude use by the public.

### **E.3 Section 5339**

All nonurbanized areas of the State are eligible service areas for the FTA Section 5339 capital assistance funds. The NDOT adheres to the FTA Section 5339 program circular—the FTA C 5100.1—and does not impose any additional limitations to the program regarding eligible services and/or service areas.

### **E.4 Meal Delivery for Homebound Individuals**

Transit service providers receiving assistance under Section 5310 or Section 5311 may coordinate and assist in providing meal delivery service for homebound individuals on a regular basis, if the meal delivery services do not conflict with the provision of transit services or result in a reduction of service to transit passengers. The FTA expects the nutrition program to pay the operating costs attributable to meal delivery. Therefore, the FTA funding can neither be used to subsidize the costs of meal delivery, nor to purchase special vehicles or specialized equipment such as racks or heating or refrigeration units used solely for meal delivery. Meal delivery reimbursement rates should be reviewed periodically to ensure the nutrition program is paying all costs attributable to meal delivery.

### **E.5 Incidental Use**

A rural transit provider may use a Section 5311 vehicle for non-passenger transportation on an occasional, incidental basis, such as package delivery, if this incidental use does not result in a reduction of service quality or availability of public transportation service. The incidental use policy, however, does not preclude the subrecipient's use of Section 5311 assistance to support the transportation of passengers by a private provider that is not primarily engaged in passenger transportation. For example, a subrecipient may use Section 5311 funds to support a contract mail carrier that incidentally provides intercity passenger transportation, if the carrier has appropriate regulatory authority to carry passengers. In this example, Section 5311 funds may only be used to subsidize the passenger transportation services of the mail carrier.

A rural transit provider may design its Section 5311-funded services to maximize use by the public who are transportation disadvantaged, which include seniors and individuals with disabilities. Coordinated human service transportation that primarily serves seniors and

individuals with disabilities, but that is not restricted from carrying other members of the public, is considered to be open to the public if it is advertised as public transportation service.

## **F. ELIGIBLE ASSISTANCE CATEGORIES**

### **F.1 Section 5310**

The Section 5310 program requires that not less than 55 percent of the Section 5310 funding apportioned to States and designated recipients is 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. *Notably, this 55 percent is a floor, not a ceiling—recipients may use more than 55 percent of their apportionment for this type of project.*

The NDOT is committed to meeting the 55% traditional Section 5310 project requirement as specified in the Section 5310 9070.1G Circular.

Further, up to 45 percent of an area’s apportionment may be used for additional public transportation projects that are considered “other” Section 5310 projects, and:

- a. Exceed the ADA minimum requirements;
- b. Improve access to fixed-route service and decrease reliance by individuals with disabilities on ADA-complementary paratransit service; or
- c. Provide alternatives to public transportation that assist seniors and individuals with disabilities with transportation.

The NDOT has determined that Section 5310 funds will be used for the purchase of ADA accessible vehicles. Only after these needs have been met will the NDOT, at its discretion, consider additional eligible Section 5310 projects as described in the FTA Circular 9070.1G, (<https://www.transit.dot.gov/funding/grants/enhanced-mobility-seniors-individuals-disabilities-section-5310>).

### **F.2 Section 5311**

#### **F.2.A Section 5311 Administration Assistance**

Project administrative expenses are funded at 80% Federal and 20% local. Eligible project administrative costs may include, but are not limited to:

- ◆ General administrative expenses (e.g., salaries of the project director, secretary, and bookkeeper including fringe benefits);
- ◆ Marketing expenses;
- ◆ Insurance premiums or payments to a self-insurance reserve;
- ◆ Office supplies;
- ◆ Facilities and equipment rental;
- ◆ Standard overhead rates; and

- ◆ The cost of administering drug and alcohol testing.

Interest on short-term loans for operating assistance is eligible as project administration if it receives the NDOT's prior approval in writing. Additionally, administrative costs for promoting and coordinating ridesharing are eligible project administration expenses, if the activity is part of a coordinated public transportation program. Please see [Section C](#) on Page 6 for additional information on coordination.

Under the Section 5311 program, the NDOT may treat project administrative expenses incurred by a local provider as a separate cost category from either capital or operating expenses. This allows the NDOT to consider administrative expenses as "non-operating" expenses.

### **F.2.B Section 5311 Capital projects**

Capital projects are funded at a ninety-five percent (95%) Federal funding percentage according to the NDOT's established sliding scale. The local share for capital assistance is five percent (5%) of the net expense. Capital expenses include the acquisition and improvement of public transit equipment and facilities needed to operate an efficient public transit system. By the FTA definition, all capital expenses include facilities or equipment with a useful life of at least one year. Eligible capital expenses may include, but are not limited to:

- ◆ Buses;
- ◆ Vans and other paratransit vehicles;
- ◆ Radios and communications equipment;
- ◆ Passenger shelters, bus stop signs, park and ride lots, and similar passenger amenities;
- ◆ Wheelchair lifts and restraints;
- ◆ Vehicle rehabilitation, re-manufacture, or overhaul;
- ◆ Preventive maintenance, defined as all maintenance costs;
- ◆ Extended warranties which do not exceed industry standards;
- ◆ The public transportation portion of ferry boats and terminals;
- ◆ Operational support such as computer hardware or software;
- ◆ Installation costs, vehicle procurement, testing, inspection, and acceptance costs;
- ◆ Construction or rehabilitation of transit facilities including design, engineering, and land acquisition;
- ◆ Facilities to provide access for bicycles to transit facilities or equipment for transporting bicycles on transit vehicles;
- ◆ Lease of equipment or facilities when lease is more cost effective than purchase. ***The NDOT does permit leasing of buildings under the Section 5311 program; it is considered an Administrative Expense.*** (Note: When leasing of equipment or facilities is treated as a capital expense, the NDOT must establish criteria for determining cost effectiveness, in accordance with the FTA Regulations, "Capital Leases," 49 CFR Part 639);
- ◆ Capital portion of costs for service-provided-under-contract. The capital cost of contracting includes depreciation and interest on facilities and equipment, as well as allowable capital costs such as preventive maintenance. (Under the capital cost of contracting, only privately-owned assets are eligible. The subrecipient may not capitalize under the contract any capital assets (e.g., vehicle, equipment, or facility) that have any remaining Federal interest in them, or items purchased with State or local government assistance. Similarly, subrecipients may not capitalize under the contract any costs incurred delivering services



ineligible for the FTA assistance (e.g., charter or school bus service). Subrecipients may compute capital costs as a fixed percentage of the contract without further justification (Appendix G of the FTA C 9040.1G provides additional information on the capital cost of contracting);

- ◆ Joint development improvements expressly include the following: (1) commercial and residential development; (2) pedestrian and bicycle access to a public transportation facility; (3) construction, renovation, and improvement of intercity bus and intercity rail stations and terminals; and (4) renovation and improvement of historic transportation facilities. (49 U.S.C. 5302(a)(1)(G). These and other joint development improvements will be eligible for the FTA funding if they satisfy the eligibility criteria set forth at 49 U.S.C. 5302(a)(1)(G), and do not fall within the exclusion detailed at 49 U.S.C. 5302(a)(1)(G)(ii), which excludes the construction of a commercial revenue-producing facility (other than an intercity bus station or terminal) or a part of a public facility not related to public transportation. Final guidance for joint development projects was published in the Federal Register on February 7, 2007 (72 FR 5788).);
- ◆ Introduction of new technology, through innovative and improved products, into public transportation;
- ◆ Mobility management consists of short-range planning, management activities and projects for improving coordination among public transportation, and other transportation service providers carried out by a recipient or subrecipient through an agreement entered with a person, including a governmental authority, but excludes operating expenses;
- ◆ Crime prevention and security (including projects to refine and develop security and emergency response plans; projects aimed at detecting chemical and biological agents in public transportation; the conduct of emergency response drills with public transportation agencies and local first response agencies; and security training for public transportation employees; but excluding all expenses related to operations, other than such expenses incurred in conducting activities described above);
- ◆ Transit-related Intelligent Transportation Systems (ITS);
- ◆ Americans with Disabilities Act of 1990 (ADA) Paratransit service operating costs (as a capital expense, may not exceed 10 percent of the State's annual apportionment of Section 5311 funds, and subrecipients may only use Section 5311 funds for this purpose when they comply with ADA requirements for both fixed route and demand-responsive service, when provided); and
- ◆ Replacement/spare vehicle components for program vehicles that have one or more years of useful life remaining and demonstrate a good maintenance record.

Local matching funds are primarily cash contributions from local or State sources. The local share may include State or local appropriations, dedicated tax revenues, private donations, or net income generated from advertising and concessions.

In-kind can be used towards the match for construction projects with the NDOT's prior, written approval.

### **F.2.C Section 5311 Mobility Management**

Mobility Management is an eligible capital expense under the Section 5311 Program; the NDOT funds these projects at 95% Federal and 5% local. Mobility Management can consist of short-range planning and management activities and projects (including personnel and technology activities) for improving coordination among public transportation and other service providers.

Mobility Management techniques can enhance transportation access for populations beyond those served by any one agency or organization. It is intended to build coordination among existing public transportation providers and other transportation service providers with the result of expanding the availability of service. *Mobility management does not include operating public transportation services.*

Typically, mobility management expenses would include salary, fringe benefits, computer(s), and software. Other expenses such as travel should be discussed with, and receive prior written approval from, the NDOT.

#### **F.2.D 5311 Operating Assistance and Farebox Revenues/Fares**

The NDOT funds operating assistance at sixty percent (60%) Federal, forty percent (40%) local. Farebox and other operating revenue must be used to reduce the overall project operating costs eligible for Federal funding.

Local match must be derived from sources other than Federal funds, except where permitted by specific Federal Program language. Local match may come from:

- ◆ State or local appropriations
- ◆ Dedicated tax revenues
- ◆ Private donations
- ◆ Net income generated from advertising and concessions
- ◆ Unrestricted Federal funds such as Title III-B of the Older Americans Act
- ◆ Service agreements with a State, local or a private human service agency

Operating expenses are those costs directly related to transit system operations. At a minimum, the following items are considered operating expenses: fuel, oil, drivers' salaries and fringe benefits, dispatcher salaries and fringe benefits, and licenses.

Maintenance costs, including preventive maintenance, may be included as part of operating costs or may be capitalized (see [Section F.2.E, Preventive Maintenance](#) on Page 14).

Only net operating expenses are eligible for assistance. Net operating expenses are those expenses that remain after the total operating revenues are subtracted from total eligible operating expenses. Operating revenues must, at a minimum, include farebox revenues.

Farebox revenues are fares paid by riders (cash fares, tickets, passes, etc.), including those fares that are reimbursed by a human service agency or other subsidy arrangement. Fares, as indicated previously, are operating revenue and, therefore, cannot be used as local match or as non-Federal share for any of the FTA's grant programs. Farebox revenue is used to determine "net project cost" for operating assistance grants only and is not considered program income for capital assistance grants (refer to the FTA C 5010.1E (<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/award-management-requirements-circular5010-1e-word-version>)).

### **F.2.E Section 5311 Preventive Maintenance**

The local share for capital assistance, including Preventive Maintenance, is five percent (5%) of the net expense. Eligible preventive maintenance costs may include:

- ◆ Oil
- ◆ Replacement parts;
- ◆ Contracted maintenance; and
- ◆ Cost of tires and tubes.

Warranty recovery should be deducted from these expenses.

### **F.3 Section 5339**

In accordance with the FTA Circular 5100.1

([https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Final\\_FTA\\_C\\_5100\\_4-16-15.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Final_FTA_C_5100_4-16-15.pdf)), the NDOT considers eligible capital projects to include those to replace, rehabilitate, and purchase buses and related equipment, and projects to construct bus-related facilities. This includes, but is not limited to:

- ◆ The acquisition of buses for fleet and service expansion;
- ◆ Bus maintenance and administrative facilities;
- ◆ The acquisition of vans for fleet and service expansion, including specialized vans and related facilities used to provide ADA complementary paratransit service;
- ◆ Transfer facilities;
- ◆ Bus malls;
- ◆ Transportation centers;
- ◆ Intermodal terminals;
- ◆ Intercity facilities which are part of a joint development project;
- ◆ Park-and-ride stations;
- ◆ Acquisition of replacement vehicles;
- ◆ Bus rebuilds;
- ◆ Bus overhauls;
- ◆ Passenger amenities such as passenger shelters and bus stop signs;
- ◆ Accessory and miscellaneous equipment such as:
  - Mobile radio units;
  - Supervisory vehicles;
  - Fare boxes;
  - Computers; and
  - Shop and garage equipment.
- ◆ Clean Fuels Projects. Purchases under this category are passenger vehicles used to provide public transportation and powered by compressed natural gas (CNG), liquefied natural gas (LNG), biodiesel fuels, batteries, alcohol-based fuels, hybrid electric, fuel cell, clean diesel (ultra-low sulfur content), or other low or zero emissions technology. Eligible activities also include constructing or leasing clean fuel buses, constructing electrical recharging facilities for such buses, and constructing new or improving existing public transportation facilities to accommodate clean fuel buses.

- ◆ Introduction of New Technology. Section 5339 funds may be used for transit-related technology, such as innovative and improved products that provide benefits to transit, including Intelligent Transportation Systems (ITS). ITS refers to the use of electronics, communications, or information processing used as a single component or in combination to improve efficiency or safety of a transit or highway system. Examples of transit-related ITS projects include:
  - Real-time bus arrival information available to passengers through electronic displays at bus stops;
  - Automatic vehicle locators;
  - Automated passenger counters;
  - Vehicle component monitoring (diagnostics);
  - Advanced fare payment methods
  - Computer-aided dispatching and real-time ridesharing; and
  - Automated information for travelers using more than one mode of transportation.
- ◆ Costs associated with environmental compliance including engineering and design activities are eligible capital expenses. This includes the preparation of environmental documents. *NOTE: Planning activities, preventive maintenance activities (other than bus overhauls), and mobility management activities are not eligible under the Section 5339 Bus Program.*
- ◆ Design and Art in Transit. Federal transit funds to support public art in transit facilities were discontinued with MAP-21. However, art can be incorporated into facility design, landscaping, and historic preservation, for example, using floor or wall tiles that contain artistic designs or patterns, use of color, use of materials, lighting, and the overall design of a facility. In addition, eligible capital projects include incidental expenses related to acquisition or construction, including design costs. Therefore, the incidental costs of incorporating art into facilities and including an artist on a design team continue to be eligible expenses.
- ◆ Leasing of Capital Assets. When a recipient/subrecipient leases capital assets from another party, leasing costs are eligible for capital assistance, provided leasing is more cost effective than purchase or construction. Leasing costs eligible for capital assistance include finance charges and ancillary costs such as delivery and installation charges. Leasing of capital assets requires compliance with 49 CFR part 639, "Capital Leases," and Office of Management and Budget (OMB) Circular A-94 which prescribes the discount rates.
- ◆ Capital Cost of Contracting. Some of the FTA recipients/subrecipients turn to an outside source to obtain public transportation service, maintenance service, or vehicles that the recipient/subrecipient will use in public transportation service. When a recipient/subrecipient enters into a contract for such service, the FTA will provide assistance for the capital consumed during the contract. In the case of a contractor providing vehicles for public transportation service, the capital consumed is equivalent to the depreciation of the vehicles in use in the public transportation service during the contract period. In the case of a maintenance contract, the capital consumed may be, for example, depreciation of the maintenance garage, or depreciation of the machine that lifts the vehicle. Capital consumed may also include a proportionate share of the interest the contractor might pay out as the contractor purchases and makes available to the recipient/subrecipient these capital assets. The FTA refers to the concept of assisting with capital consumed as the "capital cost of contracting." Only the costs attributable to the privately-owned assets are eligible under this policy. *The FTA does not provide assistance for any preventive maintenance activities under the Section 5339 Bus Program. With one exception (a public transportation vehicle privately owned in which the recipient has invested the FTA funds from the Over-the-Road Bus Accessibility Program to finance incremental*

*capital costs of complying with the Americans with Disabilities Act (ADA)), items purchased with Federal, State, or local government assistance are not eligible.*

Now, the NDOT uses only Section 5339 funds for facilities and facility renovation projects. Applicants are encouraged to discuss with the NDOT at the earliest point in the project to determine funding needs and potential funding sources. Subrecipients are encouraged to consult the FTA's website to review the "Project and Construction Management Guidelines" and the "Construction Project Management Handbook" for guidance on the development and management of construction Awards. These two resources can be found at (<https://www.transit.dot.gov/funding/grants/bus-bus-facilities-infrastructure-investment-program>).

## **G. LOCAL SHARE AND LOCAL FUNDING REQUIREMENTS**

### **G.1 Section 5310**

The local share of eligible capital costs shall not be less than 20 percent of the net cost of the activity, and the local share for eligible operating costs shall not be less than 50 percent of the net operating cost. The local share may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local service agency or private social service organization, or new capital. Some examples of these sources of local match include: State or local appropriations; dedicated tax revenues; private donations; revenue from service contracts; transportation development credits; and net income generated from advertising and concessions. Noncash share such as donations, volunteered services, or in-kind contributions is eligible to be counted toward the local match if the value of each is documented and supported, represents a cost which would otherwise be eligible under the program, and is included in the net project costs in the project budget. Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide local match for Section 5310 operating assistance. In either case, the cost of providing the contract service is included in the total project cost. No FTA program funds can be used as a source of local match for other FTA programs, even when used to contract for service. However, the local share may be derived from Federal programs that are eligible to be expended for transportation, other than DOT programs, or from DOT's Federal Lands Highway program. Examples of potential sources of local match include: employment, training, aging, medical, community services, and rehabilitation services. The Federal share may exceed 80 percent for certain projects related to ADA and Clean Air Act (CAA) compliance. For example, for vehicles, the Federal share may be increased to 85 percent for the acquisition of vehicles for purposes of complying with or maintaining compliance with ADA (42 U.S.C. 12101 et seq.). A revenue vehicle that complies with 49 CFR part 38 may be funded at 85 percent Federal share. The NDOT only funds ADA-accessible vehicles under this program.

## **G.2 Section 5311**

Following are the matching requirements for the different Section 5311 program elements:

	<b>Maximum Federal Share</b>	<b>Local Share Requirement</b>
Capital	95%	5%*
Operating	60%	40%
Preventive Maintenance	95%	5%
Project Administration	80%	20%
Mobility Management	95%	5%

\*Match must be in cash. In-kind can be used towards the match for construction projects only when approved in advance by the NDOT.

### **G.2.A Local Match Resources**

Typically, local match must be provided from non-Federal sources. Federal funds—including other DOT program funds, e.g., Section 5310—cannot be used as local match. Some Federal funds can, however be used as local match, including:

- ◆ Older Americans Act, Title III
- ◆ Temporary Assistance to Needy Families (TANF)
- ◆ Tribal Transportation Program (replaced the Indian Reservation Road program)
- ◆ STP Flexible Funds
- ◆ Community Services Block Grant Funds (CSBG)
- ◆ Community Development Block Grants (CDBG)
- ◆ Medicaid Transportation Funds

Non-Federal local match can be in the form of contract revenue, derived as part of purchase-of-service agreements with human service agencies, only if the funding source is local or State. If the source is Federal, the revenue will only be considered as local match if allowed by the Federal funding source. It should be noted though, that funds derived from purchase-of-service agreements pursuant to service agreements with a State, local human service agency, or a private human service organization may be treated as local rather than Federal funds, even though the original source of such funds may have been another Federal program.

Examples of non-Federal local match sources include:

- ◆ State or Local Appropriations
- ◆ Dedicated Tax Revenues
- ◆ Private and Non-Profit Donations
- ◆ Net Income Generated from Advertising and Concessions
- ◆ University/School Contributions

Note that any of the above sources can be used as local match; however, local government financial support is a key element in developing and sustaining an effective transit program.

### **G.2.B In-Kind Contributions**

In-kind contributions are also allowable as part of an applicant's local match, but must be:

1. Documented in the application and the applicant's accounting system.
2. Approved in advance of use by the NDOT.
3. Included in the NDOT contract.

In-kind contributions may be used toward the local match only if 1) the subrecipient formally documents the value and its rationale for determining the value of each non-cash share, and 2) this value represents a cost that would otherwise be eligible under the project. Certain forms of in-kind match (e.g., a volunteer driver) might be acceptable in lieu of cash but must be supported by the same method that the subrecipient uses to support the allocability of regular personnel costs (i.e., hours must be documented, an hourly rate assigned, etc.). The net project cost must include the value of any in-kind contributions included to the extent it is used as local match.

The NDOT will seek the FTA approval prior to the use of in-kind share prior to using it in any program of projects (POP).

**It is important to note that the entire local match for most capital projects must be in cash.**

In-kind can be used, however, towards the match for construction projects with the NDOT's prior written approval.

### **G.2.C Advertising Sales and Revenue**

Transit systems can earn revenue for use as local match from the sale of advertising space. The net income (revenue received minus expenses) generated from advertising can be used for any or all of the local share. Advertising space on transit vehicles has the advantage of an on-board captive audience, consistent visibility in the community, and is typically a low-cost advertising option that results in long term contracts. Advertising spaces can include:

- ◆ On vehicles (interior and exterior);
- ◆ At permanent passenger waiting areas;
- ◆ On printed fare media; and
- ◆ On marketing materials (schedules, brochures, promotional items).

Depending upon the nature of the business purchasing advertising, advertising space can be negotiated, sold or leased for cash revenue, or exchanged for "in-kind" services, materials, and even capital, including:

- ◆ Cash revenue;
- ◆ In-kind services (radio advertising time; newspaper advertising space; vehicle or sign painting; passenger shelter building; printing; design work; uniforms; maintenance; driver training);
- ◆ Materials (parts; supplies; fuel; oil; uniforms); and/or
- ◆ Capital (vehicles; office furniture; computer equipment).

Bus “wraps” or having a business or community group “adopt” a vehicle are other methods that can generate transit system revenue.

Advertising revenues and income generated from concessions may be included as local match or applied to the gross operations with farebox.

### **G.3 Section 5339**

The Federal share for eligible capital under the Section 5339 program is eighty percent (80%). The remaining 20 percent (20%) local match can be provided from a variety of sources, including but not limited to funds from local communities or counties, the State of Nevada, or other eligible resources.

## **H. PROJECT SELECTION CRITERIA AND METHOD OF DISTRIBUTING FUNDS**

### **H.1 Project Selection and Funding Distribution**

The NDOT uses the same project selection process for all grants (Sections 5303, 5304, 5310, 5311, and 5339). The applications must be postmarked no later than April 15 of each year. The applicant must also demonstrate that it has the requisite legal, financial and technical capacity to carry out the program and to implement and manage the project.

The NDOT Transit staff reviews the applications for eligibility and completeness and may provide comments on past performance and deficiencies of past applicants. Staff review comments are forwarded to an evaluation committee along with the applications. The evaluation committee will score and rank applications on the criteria worksheets and make recommendations back to the NDOT for distribution of the funds. Projects are scored based on:

- ◆ Service
  - Need for service
  - ADA Compliant
  - Service Area
  - Vision/Mission
  - Access Type
  - Existing Inventory
- ◆ Financial
  - Match Source
  - Other Revenues
  - Budget
- ◆ Coordination
  - Resources
  - Programs
  - Willingness
- ◆ Maintenance and Safety
  - Maintenance plan
  - Oversight
  - Training program



- ◆ Community Support & Customer Satisfaction
  - Letters of Support
  - Community Support
  - Surveys
  - Public Involvement
- ◆ Unmet Needs
  - Current and Future
  - Economic Impact

### **H.1.A Section 5311 Funding Priorities**

The NDOT has established three priorities for Section 5311 projects.

Priority 1. The first funding priority is to continue operating assistance to current Section 5311 recipients where a continuing demand for public transportation service and a need for Federal subsidy exists. Projects must be in good standing to continue to receive funding.

Priority 2. The second funding priority is to support capital projects for existing systems. When capital funding is made available, eligible requests will be prioritized on the following basis:

1. Replacement of old, worn-out or unsafe revenue vehicles;
2. Purchase of vehicles for the expansion of existing services or purchase of additional vehicles to meet demonstrated capacity problems on current routes;
3. Purchase of miscellaneous capital equipment (e.g. radios, shop equipment, etc.); and
4. Construction and/or renovation of facilities.

Priority 3. The third priority is the funding of operating and capital expenses for new rural transportation systems. Before the NDOT will approve any new rural transit project, the following must be determined:

1. Goals and Objectives. An agency should determine its overall mission, goals, and objectives. As the mission of the transportation program is clarified, there are specific issues that will shape a transportation system. These include determining the geographic area to be served, the area's greatest transportation needs, and current transportation resources.
2. Needs Assessment. Once the goals, objectives, and the service area are defined, a needs assessment for the proposed service area must be conducted to assess unmet needs, including:
  - a. Transportation needs for human services clients as well as the public;
  - b. Frequency and times of transportation needs (e.g., service gaps such as early morning service, evening, weekend, etc.;
  - c. Revenue sources to provide an adequate level of service to meet these needs;
  - d. Existing transportation services, both public and private as well as existing vehicles in the service area, including their type, age, condition, seating capacity and whether for sale, lease or shared use;

- e. New vehicle and other capital needs;
- f. Local government support of rural transit; and
- g. Multi-year (4–5 year) financial plan.

The NDOT will make the final selection of projects in consideration of the committee's recommendations and prepare the annual Program of Projects (POP) to be submitted to the FTA for review and approval. The NDOT may adjust funding levels on some projects based on their placement on the prioritized list of projects and the amount of the NDOT's Federal allocation.

### **H.1.B Additional Section 5339 Information**

The NDOT's Section 5339 apportionment is divided two ways. The first funding division is for transit organizations serving small urbanized areas. In Nevada, there is only one small urbanized area, the Carson Area Metropolitan Planning Organization (CAMPO)(<http://carson.org/how-do-i/find/public-transportation>).

The second Section 5339 funding division is under the State's discretion. The NDOT uses these funds to purchase capital projects for Section 5311 subrecipients which are eligible public or nonprofit transit organizations/providers. In the case of the NDOT allocation, the NDOT will award projects based on need, with the priority being equipment replacement. Transit Asset Management (TAM) plans will also be considered in funding allocations. Other eligible projects that meet a need may be funded as money permits. An evaluation committee as determined by the NDOT will make the final funding allocations.

### **H.2 Statewide Transit Program Dispute/Resolution/Appeal Process**

Should an applicant wish to appeal the NDOT funding decision, the following process must be used for the appeal to be recognized as valid:

1. Letters of appeal must clearly identify the applicant, contact person, address, phone number, project description and grounds for appeal.
2. Letters of appeal must be hand carried or sent by certified mail and be received by the Department within thirty (30) calendar days of the notification of selection.
3. All letters of appeal must be addressed and/or delivered to the Nevada Department of Transportation; Assistant Director of Planning, Attn: Transit Manager; Multimodal Planning Division; 1263 S. Stewart St.; Carson City, NV 89712.

The NDOT Transit Manager will review the appeal with the NDOT Program Administrator and notify the applicant of the review and any decision within fifteen (15) business days of receipt.

If the applicant is not satisfied with the Program Administrator's response, an appeal may be made to the NDOT Director's Office, in care of the Assistant Director of Planning (see above address). This second appeal must be sent by certified mail and be received within ten (10) business days of the response from the Program Administrator. The Assistant Director of Planning will provide a written response to the applicant within fifteen (15) business days of the

receipt of the appeal to the Director's office. Any decision made by the Assistant Director of Planning will be final.

## **I. INTERCITY BUS TRANSPORTATION (SECTION 5311(f))**

The NDOT is required by the FTA to spend at least fifteen percent (15%) of its total Section 5311 apportionment “to carry out a program for the development and support of intercity bus transportation.” The purpose of the Intercity Bus Program is to establish, preserve and enhance rural and small urban intercity transportation.

Program goals are to support connectivity between rural and urbanized areas, operating services to meet the intercity travel needs of residents in small urban and rural areas, the establishment, enhancement, and preservation of essential intercity bus services on deficient corridors, and to establish a network of intercity bus services and connectivity within a national system.

The NDOT awards at least 15% of its formula funds to both Intercity and Intercity Feeder Routes under the Intercity Program. Per the FTA requirements, the NDOT will not fund intercity routes that do not demonstrate a significant benefit to rural communities. Operating assistance is funded at sixty percent (60%) Federal and forty percent (40%) local. Currently, the NDOT is not funding any capital projects under this program.

Intercity routes are characterized as routes between two urbanized areas not near, but which make a meaningful connection with, a rural area. Intercity Feeder Routes are those which connect a rural area to an urban area or a rural area to an Intercity Route. These routes must connect to a larger Intercity network to be considered for Intercity funding. The marketing materials and websites must indicate that the service is either an Intercity Route or an Intercity Feeder Route. All routes have limited stops in the communities served and must allow passengers to carry baggage.

As with all Section 5311 operating programs, the NDOT funds a portion of the operating deficit after fare revenues have been deducted. Capital assistance may be used to purchase vehicles or vehicle-related equipment such as wheelchair lifts for use in intercity service. Charter and tour services are not eligible for the FTA assistance.

The NDOT annually publishes a notice in State newspapers and posts it on its website soliciting intercity bus projects. The Division sends copies of the notice to Greyhound, American Bus Association (ABA), and United Motorcoach Association (UMA), as required.

## **J. ANNUAL PROGRAM OF PROJECT DEVELOPMENT AND APPROVAL PROCESS**

### **J.1 Project Solicitation, Notice of Availability**

The NDOT solicits the FTA grant funding applications annually for Sections 5310, 5311, and 5339 by advertising in over twenty (20) newspapers throughout the State including cultural and statewide publications. The advertisements include the contact information for obtaining applications and the link to the NDOT website where applications can be downloaded electronically. All documents must be signed by individuals with signature authority for the applicant as well as the applicant’s legal counsel.

In addition to advertising in statewide newspapers, all agencies interested in applying for the FTA funding throughout the year are encouraged to review the NDOT grant application and instructions available on the NDOT website, (<https://www.nevadadot.com/mobility/transit-providers/transit-documentation-and-applications>). Applications can also be requested by mail. Every effort is made to ensure that all eligible organizations are notified. Eligibility is based only on Federal guidelines for program compliance, without regard to race, color, or national origin. Current applicants, MPOs and regional planning organizations are also notified of application availability.

### **I.1.A Application Submission by Subrecipients**

The NDOT requires separate applications for each Federal Transit Administration Program. One Section 5311 application is submitted for operating, capitalized maintenance, and capital equipment. The Section 5311 application must include justification for all projects as well as a separate budget and match sources for each project. If the same applicant is also applying for Sections 5339 and 5310 funding, separate applications are needed for each grant request.

### **I.2 One-Year Grant Funding Cycle**

For Sections 5310, 5311, and 5339 projects, the NDOT funds projects on a one-year funding cycle. Applicants are required to submit a complete application on or before the application deadline to be considered for funding. Agencies must be in good standing to receive funding.

Funding agreements will be issued for a one-year period of performance (see [Section I.3](#) on Page 23).

### **I.3 Period of Performance**

The period of performance for subrecipient contracts is October 1- September 30 of each year. It is the NDOT's intention that operating assistance grants will be for a period of one year with no extensions. If a contract extension is requested due to extraordinary extenuating circumstances, it must be submitted to the NDOT for prior approval. The NDOT may establish different periods of performance for projects that are programmed for funding but have not yet met all the statutory or administrative requirements of the programs pursuant to the applicable FTA Circulars. Additionally, some projects such as construction projects may extend beyond one year.

### **I.4 Data Universal Numbering System (DUNS)**

Subrecipients are required to provide their DUNS number to the NDOT prior to the issuance of any grant agreements, contracts and/or awards.

### **I.5 Annual Grant Submission and Program of Projects (POP)**

The NDOT's review and approval process is approximately six (6) months. Applications for the Sections 5310, 5311, and 5339 programs recommended for funding are then incorporated into a

Program of Projects (POP) (identified by applicant and project, including a project budget) by the NDOT for each program and submitted to the FTA regional office for review and approval.

POP Projects are identified as either Category A or B projects, depending on their level of readiness (all information has been provided (Category A) or information is still pending (Category B)). The FTA awards grants and obligates funds for the total amount the NDOT requests for both categories. The FTA grant award constitutes the FTA approval of the NDOT's annual POP and constitutes the FTA approval of Category A projects. For those projects, the NDOT may draw down Federal funds to reimburse expenses incurred for Category A projects immediately upon execution of the grant agreement between the NDOT and the FTA.

The FTA's grant award constitutes only conditional approval of Category B projects. Once the subrecipients have met all applicable Federal requirements, the NDOT may advance those projects to Category A and then draw down funds. The FTA's prior approval is not required for advancing a project from Category B to A.

Once the NDOT receives the FTA approval, applicants are notified in writing of their award.

#### **I.6 Revisions to Program of Project/Subrecipient Budget Revisions**

Any revisions to the FTA approved Program of Projects are normally requested by subrecipients in consultation with the NDOT Rural Transit Program Specialists and the NDOT Transit Manager in accordance with the provisions outlined in the applicable FTA Circulars. The Rural Transit Program Specialists and the Transit Manager review and approve all budget revisions. Written contract amendments developed for funding increases above those approved in the annual Program of Projects are signed and executed by the Director and subrecipient designee.

The FTA's approval is not required to reallocate funds among projects included in the approved POP, so long as any single change does not exceed 20 percent of the affected project. Section 5310 projects must be consistent with the locally developed, coordinated public transit-human services transportation plan from which the projects were selected. The NDOT's Section 5310 request for approval includes documentation that the proposed changes in the POP are projects that are included in a locally developed coordinated plan.

In accordance with the FTA Circulars, the NDOT may make revisions in the POP without prior notification to the FTA for such things as deleting a project from the POP, if the project cost is less than 20 percent of the total of the affected POP, or advancing projects from Category B to A, provided the prospective subrecipient is following all applicable Federal requirements. Other changes as outlined in the applicable program circular require either the FTA notification or approval prior to taking any POP action. See the applicable FTA Circulars for additional guidance.

#### **I.7 Annual Calendar of Events**

- October**
- ◆ Process new Federal fiscal year grants with the FTA
  - ◆ Complete the annual FTA Certifications and Assurances

- ◆ Receive final billings and reporting requirements/vehicle inventory reports from prior fourth Federal fiscal year quarter
  - ◆ Progress reports from Grantees
  - ◆ Attend SPR meeting with FHWA regarding transit program
  - ◆ The NDOT reporting to the FTA, closeout documentation prior year, drawdowns
- November**
- ◆ Update fleet information (transfer titles if applicable to grantees)
  - ◆ Reassign vehicles between grantees as appropriate
- December**
- ◆ Finalize the execution with the NDOT/FTA (if not completed prior)
- January**
- ◆ Review and finalize vehicle procurement order with Equipment Division
  - ◆ The NDOT quarterly report to the FTA, drawdown
- February**
- ◆ Equipment Division meets with State Purchasing for capital bus items
  - ◆ Update application packet to reflect new guidelines or requirements
  - ◆ Solicit application via newspaper and/or letters
  - ◆ Review monitoring program
- March**
- ◆ Distribute application packet on request to grantees or potential new grantees requesting a vehicle
  - ◆ The NDOT quarterly report to the FTA, drawdown
  - ◆ Annual Management Information System due to the FTA (applicable only to Section 5311)
- April**
- ◆ The annual FTA/NDOT visit to discuss program, respond to SMP review and related issues
  - ◆ Begin application review
- May**
- ◆ Applications are selected for the next Federal Fiscal Year
  - ◆ Prepare grantee agreements for vehicles, operating funds, project administration application
  - ◆ Provide for the STIP selected grantees, vehicles and funding amounts
- June**
- ◆ Provide grantees that were selected a letter describing the award and purpose
  - ◆ The NDOT quarterly reports to the FTA, drawdown
  - ◆ The NDOT agreement sent to Grantee for signature
- July**
- ◆ The NDOT quarterly report to the FTA, drawdown
  - ◆ Provide information to the STIP process on the Sections 5310, 5311 and 5339 programs for the current fiscal year

- August**
  - ◆ Prepare applications for the FTA for next Federal funding fiscal year
  - ◆ Corrective action for unresolved monitoring issues
  
- September** ◆ Grantee agreements are executed
  
- ALL YEAR**
  - ◆ Grantee liaison/public relations
  - ◆ Data collection from grantees, i.e. monthly ridership, vehicle maintenance reports, etc.
  - ◆ Transportation Planning Advisory Committee (TPAC) meetings as scheduled
  - ◆ Grantee training and monitoring

**I.8 Sections 5310, 5311, and 5339 Public Notice Requirements**

To ensure that meaningful and timely public input is provided in the development and implementation of the Sections 5310, 5311, and 5339 Grant Programs, each applicant will be required to publish a public notice briefly explaining its grant application and the services intended to be offered, and the impact upon the citizens within the established service area, if the application is funded. The notice must also offer an opportunity for requesting a public hearing by public and private providers of transit and paratransit services; regional, county and local governments; citizen and consumer groups or individuals, including minorities, the economically disadvantaged, individuals with disabilities; and labor organizations.

To provide a fair and timely opportunity to participate to the maximum extent feasible in the development of the program by each of these groups, the public notice must be published in newspapers of general circulation in the area to be affected by the proposed project, including any newspapers oriented to the minority community as follows:

1. The NDOT requires that the notice is advertised at least twice in each newspaper in a fifteen (15) day period, with seven (7) days between each of the two (2) advertisements.
2. Comments must be accepted for at least fifteen (15) days from the date of the last notice.

The Public Notice must also be sent to each transportation provider within the service area. This step will ensure that all operators have been notified of the potential Section 5311 project, to foster coordination activities. A copy of the public notice, certificates of publication and all correspondence mailed to each operator in the system's service area must accompany the Section 5311 application submitted to the Transit Section.

**I.9 Public Hearing Requirement, if Requested**

If a public hearing is requested as part of the grant application process, applicants should schedule the hearing date at least fourteen (14) days after the second notice is published. The notice of the public meeting must include the name of the applicant, the time, date, and place of the hearing, an adequate description of the project, including the area to be served by the proposed undertaking, items to be purchased, constructed, etc. The notice of the public hearing must also include a statement which allows individuals with Limited English Proficiency (LEP)



(in accordance with Title VI requirements) and individuals with disabilities who may require accessibility under the Americans With Disabilities Act (ADA) the ability to request appropriate accommodations. See the Minimum Public Meeting Requirements below for further direction.

### **I.10 Minimum Public Meeting Requirements for Any Action Requiring a Public Meeting**

Any public meetings should be held at a place and time generally convenient for persons affected by the proposed undertaking. To encourage attendance, the location should be easily accessible by local transit service. The notice of the public meeting must include the name of the applicant, the time, date, and place and advertised in such places as transit facilities, local businesses in the affected areas, newspapers, minority or limited English proficiency venues, community centers, etc. The site must be accessible to older adults and individuals with disabilities, and if possible, accessible by local transit service. Provisions should be made for submission of written statements, exhibits, and oral statements. Interpreters must be provided for non-English speaking persons, if requested. A written summary of the oral proceedings must be prepared. The Title VI notice must be included in the public notice and visible at any public hearing or meeting. The notice of the public meeting must also include a statement which allows individuals with Limited English Proficiency per Title VI requirements and those requiring assistance under the ADA the ability to request an accommodation.

Additional information on Nevada's open meeting requirements can be found at ([http://ag.nv.gov/About/Governmental\\_Affairs/OML/](http://ag.nv.gov/About/Governmental_Affairs/OML/)). A compliance checklist can be found at ([http://ag.nv.gov/uploadedFiles/agnv.gov/Content/About/Governmental\\_Affairs/OML\\_Portal/2016-01-25\\_OML\\_12TH\\_AGOMANUAL.pdf](http://ag.nv.gov/uploadedFiles/agnv.gov/Content/About/Governmental_Affairs/OML_Portal/2016-01-25_OML_12TH_AGOMANUAL.pdf)).

### **I.11 The FTA Certifications and Assurances**

All Sections 5310, 5311, and 5339 applicants must sign and submit as part of their application the required Federal Certifications and Assurances. The NDOT also requires these Federal Certifications and Assurances to be signed and re-submitted annually. The NDOT provides information to subrecipients regarding the requirements and obligations under these requirements as part of the application process.

The signed application, with all attachments included, becomes part of the NDOT agreement. Applications without the proper Certifications and Assurances will be rejected. Compliance with the signed Certifications and Assurances may be reviewed during the NDOT on-site monitoring visits. Subrecipients that are determined to be out of compliance with any provision will be subject to corrective action, specific sanctions, or termination. All subrecipients will be monitored for general Agreement compliance at a minimum of every two years. Subrecipients with major management and oversight responsibilities may be subject to an administrative/management review and a general compliance on-site review more frequently.

Please see the schedule for Subrecipient Monitoring in Section T.9, Page 64, of this Plan.

## **I.12 Pre-Agreement Verification and Pre-Award Audits**

Each subrecipient's application must document the source of local match funds, and include an annual budget, signed Certifications and Assurances, and other pertinent information for Federal compliance. The NDOT may conduct an on-site visit to ensure the subrecipient's ability to manage the program successfully. Prior to the offer of an Agreement to the subrecipient, financial systems may be reviewed for compliance with the NDOT and Federal requirements. Once all assurances are met, the NDOT will proceed with the agreement process. This procedure applies to applicants for the FTA Sections 5310, 5311, and 5339 program funds.

Any subrecipient approved to receive the FTA funds through the NDOT is subject to a financial system pre-audit to be conducted by the NDOT Internal Audit Division. The pre-audit may include, but is not limited to, a review of the Internal Controls, Accounting System, and the Payroll System.

## **I.13 Written Code of Conduct**

The NDOT subrecipients are required to maintain a written code or standard of conduct that governs the performance of its officers, employees, board members, or agents engaged in the award and administration of contracts supported by Federal funds. This standard must ensure that no employee, officer, board member, or agent of the subrecipient will be directly involved in the selection, award, or administration of a contract supported by the NDOT/FTA funds if a conflict of interest, real or apparent, would be involved. The code must ensure the subrecipient's officers, employees, board members, or agents will not solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to a subagreement.

## **K. FUND TRANSFERS**

While Federal requirements do not mandate the FTA approval prior to transfer of an apportionment, Nevada's Governor through the NDOT does provide notification to the FTA of a transfer for each transaction so that the FTA can accurately reflect this transfer decision in overall program budget levels and apportionment records. In addition, the grant application project budget shows the amount of transferred funds.

### **K.1 Section 5310**

Section 5310 funding transfers to other programs are not permitted per the FTA Circular 9070.1G.

### **K.2 Section 5311**

The NDOT may transfer Section 5307 (urbanized area) funds, or flexible funds to Section 5311 to supplement the NDOT's FTA-apportioned funds, as specified in the FTA guidance. The Nevada Governor may also transfer Section 5311 funds to supplement Section 5307 funds apportioned to the State for urbanized areas with populations less than 200,000. The Governor may transfer

these funds without consultation within the last ninety days in which the funds are available for obligation, for use anywhere in the State. The period of availability of the transferred funds is that of the Section 5311 apportionment (three years). To date no transfers as previously described have been requested. The NDOT will notify the FTA Regional Administrator of its intent to transfer funds should this situation arise.

### **K.3 Section 5339**

Consistent with 49 U.S.C. 5339(e)(1), Nevada's Governor may transfer any part of the State's apportionment, specifically the National Distribution allocation, to supplement amounts apportioned to Nevada under Section 5311(c) or amounts apportioned to Nevada for areas under 200,000 in population under Section 5307. Transferred funds are used for eligible Bus Program activities, even if combined in a grant with other Section 5307 or 5311 funding. Nevada uses this transfer for administrative purposes only and allows Section 5307 direct recipients to apply directly to the FTA for their Section 5339 allocation.

## **L. STATE ADMINISTRATION AND TECHNICAL ASSISTANCE**

### **L.1 State Administration and Technical Assistance**

In the administration of the Sections 5310, 5311, and 5339 programs, the NDOT takes steps to ensure that Federal funds are properly spent and that it follows all Federal requirements as outlined in the FTA Circulars. Program administration for these grants encompasses, among other things, administration, planning and technical assistance. The NDOT does this through ensuring that the NDOT follows program requirements including the development of any required plans and/or data submissions, though oversight activities and the provision of technical assistance to assist subrecipients in meeting program requirements.

The NDOT is available to provide a wide range of technical assistance to local areas upon request. Additionally, the NDOT may draw upon other Department resources (i.e. Legal, Purchasing, Accounting, Auditing, Information Technology, Civil Rights and Engineering), as well as contracted professional services to provide technical and management assistance to the Sections 5310, 5311, and 5339 Programs.

The NDOT technical and management assistance will be available to existing, new, and future applicants including but not limited to the following areas:

- ◆ Assistance with preparation of project grant applications;
- ◆ Assistance with coordination of transportation development plans;
- ◆ Assistance with transportation coordination issues;
- ◆ Guidance on implementation strategies regarding the FTA regulations;
- ◆ Assistance with grants management functions including invoicing, record keeping and accounting issues;
- ◆ Assistance with procurement and third-party contracting;
- ◆ Assistance with provisions of contracted professional services to deliver technical and management assistance to the Sections 5310, 5311, and 5339 programs;

- ◆ Assistance with provisions of driver training and preventive maintenance programs;
- ◆ Assistance with development and review of vehicle specifications;
- ◆ Participation in local planning issues;
- ◆ Participation with development of local financing strategies;
- ◆ Assistance with coordinating the establishment of programs for providing service to older adults and individuals with disabilities;
- ◆ Oversight and guidance of programs to comply with civil rights requirements;
- ◆ Oversight and guidance on facility construction or renovation projects; and
- ◆ Other issues/requests and needs, which may arise from time to time.

The NDOT uses no more than 10% of its Section 5310 and Section 5311 apportionments for administrative expenses. Additionally, under the Section 5311 program, the NDOT undertakes a separate Rural Transit Assistance Program (RTAP) to provide training and technical assistance to Section 5311 recipients; however, Sections 5310 and 5339 subrecipients may also benefit from these projects so long as the activities are primarily designed and delivered to benefit rural transit providers. The NDOT accounts separately for Section 5311 administrative funds and RTAP funds. Additionally, the NDOT may, at its discretion, use Section 5311 administrative funds to augment RTAP activities and/or undertake research projects.

The NDOT periodically holds workshops, webinars, conferences, and meetings to disseminate information to assist subrecipients in meeting grant requirements. Additionally, the NDOT has developed, among other documents, the Nevada Ridership and Maintenance Program (RMP), Vehicle Preventive Maintenance Plan for transit, and a suggested Annual Building Inspection Checklist to assist subrecipients.

## **L.2 Planning and the Statewide Transportation Planning Public Participation Process**

Section 5311 applicants as well as Section 5339 projects have been involved in the multi-modal transportation planning processes. Obtaining and sustaining community support is an important part of developing and growing an effective rural public transit system. The Section 5311 program applicants/subrecipients are responsible for garnering support from a broad number of stakeholders – local governments, local businesses, the medical community, agencies serving seniors and people with disabilities, as well as others. This includes ensuring that the service responds to changing local needs.

### **L.2.A Planning Assistance**

Prospective Sections 5310, 5311, and 5339 applicants and those already participating in the Section 5311 program may obtain planning assistance, demographics information, and information about other providers through the NDOT or Metropolitan Planning Organization(s) in their region(s).

### **L.2.B Statewide Transportation Plan**

The NDOT has developed a statewide transportation plan in accordance with CFR Title 23 part 450. It considers and provides for, as applicable, connections among and between rail,

commercial motor vehicles and aviation facilities, particularly with respect to intercity travel. The plan is statewide in scope to facilitate the efficient movement of people and goods. It is set for a planning horizon of twenty years and contains an element for bicycle transportation, pedestrian walkways and trails appropriately connected to other modes. The plan references or contains applicable short-range planning studies, strategic planning studies, transportation needs studies and statements of policies, goals, objectives and performance measures regarding issues such as transportation, demographics, economic development, social and environmental effects, preservation of future right-of-way and energy related issues. It reflects or references any metropolitan area plan developed pursuant to 23 USC 134 and section 8 of the Federal Transit Act, 49 USC app. 1607. The plan reflects or references methods to expand and enhance appropriate transit services and to increase the use of such services, finally, it also includes innovative financing methods and investment strategies.

### **L.2.C Statewide Transportation Improvement Plan (STIP)**

The NDOT administers and implements programs for the planning, development, construction, and operation of the State's transportation systems. The NDOT's mission is to "Provide a better transportation system for Nevada through our unified and dedicated efforts. "

Annually, the NDOT develops a Statewide Transportation Improvement Program (STIP). The STIP includes a five-year list of Federally-funded and regionally significant non-Federally funded transportation projects and programs consistent with the goals and strategies of the Statewide Transportation Plan.

Development of the STIP is completed in cooperation with the State's Metropolitan Planning Organizations (MPOs) and local governmental agencies. An MPO is designated for each urbanized area with a population of more than 50,000. At present, there are four MPOs in the State of Nevada. Three of the MPOs were designated by the Bureau of the Census (the Regional Transportation Commission (RTC) of Southern Nevada, the RTC of Washoe County, and the Carson Area MPO). The fourth MPO (Lake Tahoe) was designated as an MPO through legislation passed by the U.S. Congress.

Each MPO is required to develop a Regional Transportation Improvement Program (RTIP) that is consistent with each MPO's Regional Transportation Plan (RTP), a 20-year plan. The RTIP must be updated at least every four (4) years and the plans/programs contained in the RTIP must be multimodal and fiscally constrained. In addition, the MPOs are required to develop plans and programs for adoption, develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State Laws. The NDOT, the RTC of Southern Nevada, the RTC of Washoe County, the Tahoe MPO, the Carson Area MPO, and regional and local governments follow their locally-adopted public participation processes in the development of each of their RTIPS.

The MPOs, in cooperation with the State and public transit operators, develop transportation plans and programs for the urbanized areas of Nevada. These plans provide for the development, integration, management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that function as intermodal

transportation for the metropolitan areas, and as an integral part of a statewide intermodal transportation system.

Upon approval by the Governor of the State of Nevada or his designee (the Director of the NDOT), each MPO's RTIP is incorporated without change into the STIP. The STIP is reviewed by the Federal Highway Administration (FHWA) and the FTA for consistency with Federal regulations, and if acceptable, jointly approved.

The NDOT's Statewide Transportation Plan is available on the NDOT website, [www.nevadadot.com](http://www.nevadadot.com) or from the NDOT Multimodal Planning Division.

### **L.3. Public Participation Process**

The NDOT has a Statewide Transportation Planning Public Participation Process for all Sections 5310, 5311, and 5339 grants.

The NDOT has documented its public involvement process, describing opportunities for public review and comment at key decision points during transportation planning activities. The Statewide Transportation Planning Public Participation Process includes:

- ◆ Establishes early and continuous public involvement opportunities that provide timely information about transportation issues and decision-making processes to citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties;
- ◆ Provides reasonable public access to technical and policy information;
- ◆ Provides adequate public notice of public involvement activities and time for public review and comment at key decision points;
- ◆ Maximizes to the extent practicable, the conduct of public meetings at convenient and accessible locations and times; uses visualization techniques to describe plans and studies; and makes public information available in electronically accessible format and means, such as the World Wide Web;
- ◆ Demonstrates explicit consideration and response to public input;
- ◆ Includes a process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services; and
- ◆ Provides for the periodic review of the effectiveness of the public involvement process to ensure that the process provides full and open access to all interested parties.

The Statewide Transportation Planning Public Participation Process is available at (<https://www.nevadadot.com/home/showdocument?id=9339>). This process is integral to the NDOT's planning process including STIP development and other planning elements.

In addition, the NDOT's long-range plan, *Statewide Transportation Plan – Moving Nevada through 2028*, includes a transit component that describes the NDOT's transit goals and objectives. These

documents were developed from stakeholder participation, which included local elected officials, who met numerous times during the planning process. Among the transit issues discussed were the need for capital investment and continued operating support for transit systems.

#### **L.4 Management of the FTA Grants at the Local Level and Good Standing**

The NDOT assists program subrecipients wherever possible; however, Sections 5310, 5311, and 5339 subrecipients have the primary responsibility for managing their projects. In the Section 5311 program, this includes ensuring the transit service meets local needs, is operated safely, effectively, and efficiently, meets performance standards, is coordinated with other agencies, and is marketed to the public and to human service agencies. In addition, all services must be operated in compliance with Federal and State regulations. Subrecipients are also responsible for identifying areas where technical assistance may be needed to fulfill these requirements and contacting the NDOT to request this assistance.

Section 5311 subrecipients are expected to maintain a “good standing” status to continue to receive grant funds.

The following is required to remain in good standing:

1. Compliance with all grant agreement requirements;
2. Responsiveness to communications and request for information from the NDOT;
3. Maintenance of adequate financial records that document and support all grant expenditures;
4. Submission of invoices that are accurate and timely;
5. Full participation in site visits with timely responses to any deficiencies;
6. Submission of reports or required documentation to the NDOT including audit documents, vehicle insurance certificates, etc.;
7. Satisfactory progress of the grant funded project; and
8. Timely reporting of accidents, as required by the NDOT.

Funds may be withheld from subrecipients if they fail to maintain a “good standing” status.

#### **M. STATE RTAP**

Funding for the Rural Transit Assistance Program (RTAP) is only provided under the Section 5311 program. RTAP is intended to be a broad and flexible program of training, technical assistance, research and other support services for nonurbanized transit operators. It provides a source of Federal funding to assist in the design and implementation of training and technical assistance programs tailored to meet the specific needs of the rural operators. Assistance under this program is 100% Federally funded. The NDOT administers the RTAP funding directly, using three primary categories of assistance: training, technical assistance, and related support services. The NDOT does not impose a local match for these funds, but does require subrecipients to get preapproval prior to charging any activity to these funds.

Providers of specialized transportation in urbanized areas, such as Section 5310-funded agencies, as well as public transit operators in small urbanized areas, have many of the same training and technical assistance needs as transit providers in rural areas. The NDOT permits participation by these providers in RTAP-sponsored activities, so long as the activities are primarily designed and delivered to benefit rural transit providers. When urbanized area providers are more than incidental beneficiaries of an RTAP-supported activity, the NDOT allocates the costs of the project fairly between RTAP and other sources.

RTAP funds can be used to promote the safe and effective delivery of transportation through the Statewide Rural Transit Training Program that includes Defensive Driving, First Aid/CPR, Passenger Assistance Training, Customer Service and Substance Abuse Program Management. It is used to reimburse public, rural and specialized transportation providers for travel and per-diem costs; for attendance at program compliance-related training workshops, conferences, meetings; for peer-to-peer technical assistance; to support State Transit events and/or conferences designed to promote networking and coordination among rural transit providers; and to support the cost of production and publication of any newsletters to distribute information relevant to transit providers in nonurbanized areas.

**M.1 Required Participation in the NDOT-Sponsored Training Workshops**

The NDOT has established minimum requirements for subrecipient training. An effective training program includes driver training to ensure passenger safety, staff training to ensure that clients are handled in an efficient, firm, yet sensitive manner, and client travel training to safely use the system. Driver training is the single most important tool that transit management has available to improve a system’s operational efficiency, image, and risk management. Vehicle operators are the first and often the only personal contact that passengers have with a transit system. Drivers should be familiar with the vehicles they operate, knowledgeable of the system’s fare structure, transfer procedures, fare collection, how to complete required forms, safety and security, emergency and accident handling procedures, and how to interact with the elderly and persons with disabilities, CPR, first aid, and Passenger Assistance Service and Safety training (PASS).

The table below lists the required training and timelines for subrecipients.

<b>TRAINING</b>	<b>INITIAL</b>	<b>RECERTIFICATION</b>
Passenger Assistance and Safety Training (PASS)	Within 6 months from date of hire.	Every three (3) years, 4 – 8-hour class
Defensive Driving	Within 6 months from date of hire.	Every three years
Drug and Alcohol	<b>All safety-sensitive employees</b> are required to have 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use.	Annual review recommended, but not required



TRAINING	INITIAL	RECERTIFICATION
	<p>A best practice would be for safety-sensitive employees to receive the training <b>before</b> performing safety-sensitive functions, but this is not a requirement. Alcohol awareness training is recommended but not required.</p> <p>All supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of the same training on probable alcohol misuse.</p>	
First Aid	Within 6 months from date of hire	Typically, every two (2) years
Cardio-Pulmonary Resuscitation (CPR)	Initial training included in First Aid.	Annual Recertification
Bloodborne Pathogens	Within 6 months from date of hire.	Annual

Agencies are encouraged to participate in all available trainings; the above chart should be used as minimum training requirements. The NDOT also notifies subrecipients of additional training resources, such as the National Transit Institute (NTI) and National RTAP.

**N. PRIVATE SECTOR PARTICIPATION**

Sections 5310, 5311, and 5339 applicants are required "to the maximum extent feasible" to provide for "the participation of private mass transportation companies." While the FTA no longer prescribes a private sector participation process, Sections 5310, 5311, and 5339 subrecipients still have obligations under this requirement. The NDOT's statewide and metropolitan planning process is assumed to adequately address private sector concerns. Private sector operators are also encouraged to participate in the public transit-human service transportation plan process.

**O. CIVIL RIGHTS**

The NDOT and Sections 5310, 5311, and 5339 subrecipients must comply with applicable provisions of 49 U.S.C. 5332. These provisions prohibit discrimination based on race, color, religion, national origin, sex, age, and disability, and prohibit discrimination in employment or business opportunity.

## **0.1 Title VI**

The NDOT requires all the FTA grantees to keep a complaint log. Complaints which may be related to Title VI must be documented, including all responses and follow-up. The program must follow their agency's complaint process as outlined in their Title VI Plan. The program must follow the policies for all other complaints as outlined in the program policy or driver handbook.

Title 49 CFR Section 21.9(b) requires recipients (the NDOT) to "keep such records and submit to the USDOT Secretary timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the USDOT Secretary may determine to be necessary to enable her to ascertain whether the recipient (the NDOT) has complied or is complying with this [rule]." The FTA requires recipients to document their compliance with DOT's Title VI regulations by submitting a Title VI Program to their FTA regional civil rights officer once every three years or as otherwise directed by the FTA.

The NDOT does this on behalf of its subrecipients. Subrecipients are required to submit to the NDOT their plans and plan updates and an annual report of any Title VI activities. The NDOT must submit a Title VI Civil Rights Act of 1964 Annual Report that includes information on any lawsuits/complaints of discrimination against the subrecipient/operator of service, and a summary of civil rights compliance review activities conducted that year. The NDOT determines the plan update schedules and will contact their grantees when this is required.

### **0.1.A Access to Services for Persons with Limited English Proficiency (LEP)**

The NDOT and its subrecipients agree to promote accessibility of public transportation services to persons with limited understanding of English by following:

1. Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and
2. U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005.

To meet the FTA requirements, subrecipients must submit an LEP plan with their Title VI Program. The FTA guidance requires that subrecipients complete a Four-Factor Analysis to determine appropriate language assistance measures. The four factors include:

- Factor 1:** Number/proportion of LEP persons eligible to be served or likely to be encountered by the program or recipient.
- Factor 2:** Frequency with which LEP persons encounter the transit program.
- Factor 3:** Nature and importance of the program, activity, or service provided by your program to LEP persons' lives.
- Factor 4:** Local resources available to respond to LEP outreach and identify needs as well as costs.

Once the Four-Factor analysis is completed, the subrecipient must develop a language assistance plan outlining the agency's current procedures and steps it plans to take in the future to ensure meaningful access to transit programs by persons with limited English proficiency. The NDOT is available to provide technical assistance as needed.

### **0.2 EEO Plans**

In accordance with the FTA's Equal Employment Opportunities (EEO) Circular 4704.1A, all applicants, recipients, subrecipients and contractors that meet both thresholds listed below must implement all EEO Program elements, and submit an EEO Program every four years. The thresholds subject to this requirement are:

1. Employment of 100 or more transit-related employees; **AND**
2. Requesting or receiving capital or operating assistance more than \$1 million in the previous Federal fiscal year, or requests or receives planning assistance more than \$250,000 in the previous Federal fiscal year.

Applicants, recipients, subrecipients and contractors who meet the thresholds listed below must submit an *abbreviated* EEO Plan:

1. Employment of between 50-99 transit-related employees, **AND**
2. Requesting or receiving capital or operating assistance more than \$1 million in the previous Federal fiscal year, or requests or receives planning assistance more than \$250,000 in the previous Federal fiscal year.

The NDOT's Transit Section will be assisted by the NDOT Civil Rights Division to review and approve EEO plans for subrecipients meeting the stated thresholds. This will be completed during the grant application process before the subrecipient is approved to receive their requested the FTA funds. In addition, all subrecipient EEO plans are reviewed to ensure that they meet FTA requirements during on-site monitoring. Contact the NDOT Transit Section at 775-888-7312 for further guidance if your organization meets the threshold for developing an EEO plan.

### **0.3 Nevada's DBE Program**

The NDOT has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the USDOT, 49 CFR Part 26. The NDOT receives USDOT Federal financial assistance, and as a condition of receiving this assistance, the NDOT has signed an assurance that it will comply with 49 CFR Part 26.

A DBE is a small business concern which is at least 51 percent owned by one or more socially and economically-disadvantaged individuals, or in the case of any publicly-owned business, at least 51 percent of the stock is owned by one or more socially and economically-disadvantaged individuals, and whose management and daily business operations are controlled by one or more of the socially and economically-disadvantaged individuals who own it. Socially and

economically-disadvantaged means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is any individual who a subrecipient finds to be socially and economically disadvantaged individual on a case-by-case basis and any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged: African Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, and Women and other individuals found to be socially and economically-disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act.

A subrecipient shall not discriminate based on race, color, national origin, or gender in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The subrecipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts.

It is the policy of the NDOT to ensure DBE firms, as defined in part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts, including:

- ◆ To ensure nondiscrimination in the award and administration of USDOT-assisted contracts in the Department's highway, transit and airport financial assistance programs.
- ◆ To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts.
- ◆ To ensure that the DBE Program is narrowly tailored in accordance with applicable law.
- ◆ To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs.
- ◆ To help remove barriers to the participation of DBEs in USDOT-assisted contracts.
- ◆ To assist in the development of disadvantaged firms so that they can compete successfully in the market place outside the DBE Program.
- ◆ To provide appropriate flexibility to subrecipients of Federal financial assistance in establishing and providing opportunities for DBEs.

The NDOT Transit Section has reviewed, adopted, and assured compliance with the conditions of the NDOT DBE Plan. The NDOT, through its External Civil Rights Office, takes the necessary steps to ensure that DBE firms have the maximum opportunity to compete for and perform contracts. The Office, in cooperation with the Transit Section, informs subrecipients of their responsibility to make a reasonable effort to use DBE firms; provides information to the subrecipients about the availability of such firms; monitors the subrecipient's contracting activity for DBE compliance; and reports to the FTA on contracting activities.

Each contract a subrecipient signs must include the following assurance:

*The contractor, subrecipient, or subcontractor shall not discriminate based on race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of*

*this contract, which may result in the termination of this contract or such other remedy as the subrecipient deems appropriate.*

Subrecipients who receive U.S. DOT Federal Transit Administration (FTA) funds through the NDOT as noted above and award more than \$250,000 in prime contracts in a fiscal year are required to comply with the provisions of 49 CFR Part 26 and develop their own DBE Program Plan, or adopt and utilize the NDOT DBE Program Plan. In setting a DBE transit goal, the NDOT and the subrecipient need only include contracting opportunities.

In accordance with 49 CFR 26.49, transit vehicle manufacturers, as a condition of being authorized to bid on the FTA-assisted transit vehicle procurements, will also be required to establish and submit for the FTA's approval an overall DBE percentage goal.

Additionally, agreements between the NDOT and all subrecipients will contain assurances that subrecipients will not discriminate based on race, color, national origin, sex, age, disability/handicap, and income status in the performance of this contract as well as language that obligates subrecipients to develop, and implement, their own DBE Plan or to adopt, and implement, the provisions of the NDOT DBE Program.

Nevada's DBE program can be found at: (<http://www.nevadadbe.com/website/index.php>). A link to the Certified DBE Vendors List is provided on this website. Only vendors on this list can be counted as a certified DBE firm.

#### **0.4 Nondiscrimination Based on Sex**

The NDOT and its subrecipients agree to comply with Federal prohibitions against discrimination based on sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332.

#### **0.5 Nondiscrimination Based on Age**

The NDOT and its subrecipients will comply with Federal prohibitions against discrimination based on age, including: (1) The Age Discrimination in Employment Act, 29 U.S.C. §§ 621 - 634, which prohibits discrimination based on age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals based on age in the administration of Programs, Projects, and related activities receiving Federal assistance, (4) U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and (5) Federal transit law, specifically 49 U.S.C. § 5332.

## **0.6 Nondiscrimination Based on Disability**

The NDOT and its recipients agrees to comply with the following Federal prohibitions against discrimination based on disability: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination based on disability in the administration of Federally assisted Programs, Projects, or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities: 1) For FTA Recipients generally, Titles I, II, and III of the ADA apply, but 40 FTA Master Agreement MA(23), 10-1-2016; 2) For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of “employer,” (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable Federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.

## **0.7 Nondiscrimination Laws, Regulations, Requirements, and Guidance**

The NDOT and its subrecipients will comply with any applicable Federal nondiscrimination laws, regulations, and requirements, and follow Federal guidance prohibiting discrimination.

## **P. MAINTENANCE**

Subrecipients must comply with all the NDOT and the FTA requirements for maintenance of Federally-funded equipment and facilities.

### **P.1 General and Vehicle Maintenance**

Grantees of Sections 5310, 5311, and 5339-funded equipment acquired in whole or in part with Federal funds must, until disposition takes place, meet the following minimum requirements:

1. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, entity holding title, the acquisition date, cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
3. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.
4. Adequate maintenance procedures must be developed to keep the property in good condition.
5. If the grantee is authorized or required by the NDOT to sell the property, proper sales procedures must be established to ensure the highest possible return.

Adequate maintenance procedures and programs must be developed to keep vehicles and equipment in good working condition. The NDOT requires a Preventive Maintenance (PM) program and written (PM) Plan for all Sections 5310, 5311, and 5339-funded vehicles and equipment that outlines the maintenance philosophy of the organization and assigns responsibility for performing maintenance on all vehicles, real property, and equipment. This maintenance plan shall ensure that the manufacturer's maintenance recommendations are met, maximum efficiency in performance and operation is obtained, and maximum equipment life and condition are maintained. In addition, vehicle cleanliness is a high priority for the NDOT, and a cleaning schedule should be included as part of each grantee's (PM) Plan. The Plan must specify the specific roles and required training for management, trainers, drivers, fuelers, and mechanics. Good preventive maintenance results from all staff working together as a team.

Grantees must repair accessibility features promptly and take reasonable steps to continue service to persons with disabilities while repairs are being made. And, finally, grantees must maintain a file on each piece of equipment that contains daily logs, inspection checklists, and repair records.

The NDOT's vehicle maintenance requirements are detailed in its publication, *Nevada Department of Transportation (The NDOT) Vehicle Preventive Maintenance Plan* at (<https://www.nevadadot.com/home/showdocument?id=9341>).

If a grantee does not conform to the FTA and the NDOT maintenance requirements, the NDOT will consider the grantee deficient in its assurance of “Satisfactory Continuing Control.” Failure to properly maintain Federally-funded equipment may result in a grant funds being withheld or denied for future funding requests. Keeping the State’s public transportation fleet in a state of good repair is a major goal of the NDOT. General vehicle maintenance is defined as those repairs to vehicles that involve the replacement of minor components. Minor components include, but are not limited to batteries, fuel pumps, water pumps, brake pads, windshield wiper blades, belts, filters and other parts valued under \$500.

Grantees must have a pre-trip inspection program that addresses vehicle condition, appearance and cleanliness, safety, and ADA accessibility equipment. Deficiencies noted in a pre-trip inspection must be repaired in a timely manner and properly reviewed by management. See the sample pre-trip inspection form in the *Nevada Department of Transportation (the NDOT) Vehicle Preventive Maintenance Plan* available at (<https://www.nevadadot.com/home/showdocument?id=9341>).

The NDOT may furnish subrecipients, upon request, a maintenance software program that provides a comprehensive framework of maintenance management responsibilities that include preventive maintenance, periodic inspections and record keeping. A subrecipient may use its own maintenance software program if it meets the minimum reporting requirements of the NDOT Sections 5310, 5311, and 5339 Agreement.

## **P.2 Ridership and Maintenance Program (RMP) (April 2015)**

The NDOT’s FTA grantees are **contractually required** to provide quarterly reports that include, at a minimum, the following information: ridership information for each vehicle in their fleet, Vehicle odometer updates, and vehicle maintenance information during the revenue life of the vehicle.

The Ridership and Maintenance Program (RMP) provided by the NDOT is a web-based application accessible through a web browser. The program is used to track vehicles and riders participating in the NDOT’s seniors, individuals with disabilities, and the public rural transportation programs funded by the FTA Sections 5310, 5311 and 5339 funding programs.

The RMP program is the subrecipients’ mechanism to submit the ridership information, vehicle maintenance information, and quarterly reports to the NDOT’s Transit section. The application also provides the NDOT staff with the ability to review quarterly submissions and create reports.

## **P.3 Facilities**

A written facility maintenance plan and periodic written building inspections for all the FTA-funded facilities are required and must be submitted to the NDOT. The written facility maintenance plan should identify designated staff position responsible for performing the inspections and ensuring that any required repairs are completed. Funding for major repair items such as repaving of parking lots or replacement of HVAC systems should be included in capital budgets, when appropriate.



The NDOT will conduct a visual inspection of the facility during on-site reviews. It is expected that the grantee will maintain all buildings and grounds in a good or excellent condition always. Routine maintenance should be undertaken for all facilities and equipment to extend its useful life.

Agencies not maintaining buildings in accordance with their facility maintenance plans shall be subject to corrective actions up to and including the suspension of funding. The NDOT provides subrecipients with a suggested Annual Facilities Maintenance Checklist.

## **Q. CHARTER RULE**

**The NDOT does not permit Sections 5310, 5311, and 5339 subrecipients to provide charter service.** Title 49 U.S.C. 5323(d) limits charter service provided by Federally-assisted public transportation operators. The FTA regulations specify these limitations in 49 CFR part 604—Charter Service, amended effective April 30, 2008 (73 FR 2326, Jan.14, 2008).

Subrecipients are prohibited from using Federally-funded equipment and facilities to provide charter service except in accordance with allowable exceptions.

## **R. SECTION 504 AND ADA REPORTING**

### **R.1 Section 504**

Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC 794, prohibits discrimination based on disability by recipients/subrecipients of Federal financial assistance. The NDOT's FTA subrecipients sign an "Assurance of Non-Discrimination based on Disability" that states they will not discriminate against individuals with disabilities while providing transportation service. The transportation service must meet a significant portion of the actual transportation needs of individuals with disabilities within a reasonable time. The State of Nevada *also defines individuals with disabilities as those whose impairment prevents or restricts normal mobility, which includes vision, hearing, mental and physical impairments, and who because of such impairment may need special assistance.*

The NDOT subrecipients are required to provide services as stated in their application to individuals with disabilities along with the following:

1. Each subrecipient's service area must have at a minimum at least one accessible vehicle that can accommodate persons with disabilities (Please note some systems will require more than one accessible vehicle to meet the needs of their service area. Additionally, the NDOT requires, at a minimum, 50% of the rural transit system's fleet (5311) to be accessible.);
2. All accessible vehicles and accompanying equipment must be maintained in proper operating condition;
3. A back-up accessible vehicle(s) must be available that can accommodate individuals with disabilities when an accessible vehicle is out of service;

4. If no back-up accessible vehicle is available, other arrangements must be made to ensure accessible service continues;
5. When a subrecipient replaces an accessible vehicle, another accessible vehicle must be available in the service area until delivery of the new accessible vehicle;
6. Personnel must be trained and supervised so that they operate accessible vehicles and equipment safely and properly;
7. Adequate assistance and information in accessible formats concerning accessible transportation services must be available to all persons with disabilities; and
8. Service must be provided in a timely manner, and no individual with a disability can be denied access to mass transportation for the public if that individual can use the system, even if the subrecipient also provides special service to persons with disabilities.

## **R.2 Americans with Disabilities Act (ADA)**

New facilities, vehicles, and additions and/or alterations to existing facilities and vehicles are required to comply with regulations issued by USDOT implementing the transportation provisions of ADA (49 CFR parts 27, 37, 38, and 39). Compliance is a condition of eligibility for Federal assistance required by 49 CFR part 27, and is required whether the facility or alteration is Federally assisted. Depending upon the nature of the facility, compliance with implementing regulations issued by other Federal agencies with ADA responsibilities may also be required. The NDOT and its subrecipients are responsible for ensuring that new facilities, vehicles and additions/alterations to existing facilities and vehicles are designed in accordance with USDOT and ADA regulations and related guidance in effect as of the date construction begins and for verifying compliance prior to accepting delivery (See the FTA C 5010.1E, 1E (<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/award-management-requirements-circular5010-1e-word-version>)).

Titles II and III of the Americans with Disabilities Act of 1990 (ADA) states, in part, that no entity shall discriminate against an individual with a disability relating to the provision of transportation service. The law sets forth specific requirements for vehicle and facility accessibility. Systems providing fixed-route service must also develop a Complementary Paratransit Plan that describes their provision of complementary paratransit service that is comparable to the level of service provided to individuals without disabilities who use the fixed-route system.

Providers of demand responsive service must utilize accessible vehicles, as defined at 49 CFR 37.7 or meet the applicable equivalent service standard. For private and public entities, the service must be equivalent regarding schedules, response times, geographic areas of service, hours and days of service, availability of information, reservations capability, constraints on capacity or service availability, and restrictions based on trip purpose.

Providers of fixed-route service must generally utilize accessible vehicles. Private entities may utilize nonaccessible vehicles if they can provide equivalent service in terms of schedules and headways, in addition to the equivalent service requirements described above for demand

responsive service. Public entities must also provide complementary paratransit service to fixed-route service as defined in 49 CFR 37.121.

Additionally, the NDOT requires its subrecipients to:

- ◆ Track trip denials and indicate which trips are denied to individuals with disabilities;
- ◆ Purchase or lease accessible vehicles unless it can be demonstrated that the system, when viewed in its entirety including back-up or spare vehicles, provides equivalent service to persons with disabilities. The NDOT requires, at a minimum, 50% of the rural transit system's fleet (5311) to be accessible; and
- ◆ Have access to a TDD or TTY or know how to use Relay Nevada, the state's relay service for those individuals with speech and hearing disabilities.

The FTA Americans with Disabilities Act Circular C4710.1

([https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Final\\_FTA\\_ADA\\_Circular\\_C\\_4710.1.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Final_FTA_ADA_Circular_C_4710.1.pdf)) provides official guidance regarding ADA requirements. The NDOT and its subrecipients shall be in compliance with all statutory requirements imposed by or pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990 at 49 CFR Parts 27, 37, 38 and 39. The NDOT provides additional and specific information regarding the ADA requirements to its subrecipients to ensure that they are implementing the requirements of the FTA Circular C4710.01.

## **S. NATIONAL TRANSIT DATA (NTD) REPORTING**

The National Transit Database (NTD) is the system through which the FTA collects uniform data needed by the Secretary of Transportation to administer the FTA programs. NTD is FTA's primary national database for transit industry statistics.

Pursuant to 49 USC 5335(a) and (b), the FTA requires the NDOT as a condition of its Section 5311-funding award to collect data from and submit an annual report on behalf of each of its Section 5311-funded subrecipients and/or transit systems. Reports must include information on total annual revenue, sources of revenue, total annual operating costs, total annual capital costs, fleet size and type, and related facilities, revenue vehicle miles and ridership. The annual reporting period is July 1 through June 30.

Transit Asset Management (TAM) data is also required to be submitted to NTD. It is anticipated that there may also be NTD reporting requirements when final safety management system (SMS) regulations are issued. The NDOT will ensure that all required reports are submitted by the subrecipients.

The NDOT will ensure that Sections 5310, 5311, and 5339 subrecipients, where required, submit NTD reports. In some cases, the NDOT may choose to submit data on behalf of these subrecipients.

While entities may also report to NTD directly when they are direct recipients or Tribes, the NTD data for Section 5311-funded service must also be provided to the NDOT.

The NDOT will provide technical assistance to Sections 5310, 5311, and 5339 subrecipients to assure accuracy, completeness and timeliness in required NTD data reporting as well as making them aware of their obligations regarding this FTA requirement.

## **T. STATE PROGRAM MANAGEMENT**

The NDOT undertakes a variety of administrative activities in the administration of the FTA State-managed programs. It is the NDOT's policy to administer State and Federal grants in compliance with all applicable State and Federal regulations and use best practices in the management of the FTA funds and programs.

### **T.1 Procurement**

The NDOT is responsible for ensuring that it and its subrecipients comply with all the FTA and State of Nevada procurement requirements. These requirements can be found in the various program circulars as well as in 5010.1E, Award Management Requirements at ([https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Grant%20Management%20Requirements%20Circular\\_5010-1E.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Grant%20Management%20Requirements%20Circular_5010-1E.pdf)).

As well as following the FTA procurement requirements, the NDOT must also follow the State of Nevada's purchasing regulations which can be found at (<http://purchasing.nv.gov>).

When procuring property, supplies, equipment or services under the FTA grant, the NDOT follows, and requires its subrecipients to follow, the procedures listed below:

1. Use a written procurement procedure that reflects applicable State and local laws and regulations, and conforms to applicable Federal law.
2. Maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
3. Assure to the FTA/NDOT that ethical conduct is maintained by adhering to the following requirements:
  - a. Maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts;
  - b. The officers, employees, or agents will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements;
  - c. A written policy exists that includes procedures for identifying and preventing real and apparent organizational conflicts of interests;
  - d. Provide for a review of proposed procurement to avoid purchase of unnecessary or duplicate equipment;
  - e. Make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement;

- Considerations should include contractor integrity, compliance with public policy, past performance, and financial and technical resources;
- f. Maintain records sufficient to detail the completed procurement including the method of procurement, contract type, contractor selection or rejection, and the basis for the contract price; and
  - g. Conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals. (The use of Federal funds in procurements does not allow for in-state preferences.)

The NDOT maintains written procedures to handle and resolve protests relating to State transit procurements and shall, in all instances upon the FTA request, disclose information regarding a protest to the FTA. The subrecipient is also required to maintain written procedures for handling and resolving protests relating to procurement, and to notify the NDOT of any such protests.

The NDOT also inserts value-engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.

All procurements go through the State of Nevada Purchasing Division, (<http://purchasing.nv.gov>), which has all applicable appeal processes in place.

All procurement transactions are conducted in a manner providing full and open competition when procuring goods or services. Neither the NDOT nor its subrecipients will:

- ◆ Place unreasonable requirements on firms for them to qualify to do business;
- ◆ Require unnecessary experience and excessive bonding;
- ◆ Use noncompetitive pricing practices between firms or between affiliated companies;
- ◆ Give noncompetitive awards to professionals and other consultants that are on retainer contracts; or
- ◆ Specify "brand name" products instead of allowing "an equal" product to be offered.

### **T.1.A Buy America**

Please see [Section U](#) on Page 66.

### **T.1.B Pre-award and Post-Delivery Reviews**

Please see [Section U](#) on Page 66.

### **T.1.C New Model Bus Testing**

Any new bus models must be tested at the FTA-sponsored test facility in Altoona, PA, before the FTA funds can be expended to purchase them (49 CFR Part 665, <https://www.gpo.gov/fdsys/pkg/CFR-2012-title49-vol7/pdf/CFR-2012-title49-vol7-part665.pdf>).

This requirement applies to all buses and modified vans, but not to unmodified vans, including vans with raised roofs or lifts installed in strict conformance with the original equipment manufacturer modification guidelines.

If a bidder proposes a vehicle requiring New Model Bus Testing, the bidder must ensure that the manufacturer has complied with the testing requirement by enclosing a copy of the bus testing report from the Altoona Bus Testing Center with the bid proposal. Before the NDOT can expend any FTA funds for a new model bus, the State Purchasing Division must certify that it has obtained the New Model Bus Testing report from the bidder.

#### **T.1.D Vehicle Safety Performance Standards**

On August 1, 2016 (and effective October 31, 2016), the FTA issued the Final Rule titled “Bus Testing: Establishment of Performance Standards, a Bus Model Scoring System, a Pass/Fail Standard and Other Program Updates.” The FTA issued a new pass/fail standard and new aggregated scoring system for buses and modified vans that are subject to the FTA’s bus testing program, as mandated by Section 20014 of MAP-21. The pass/fail standard and scoring system address the following categories as required by MAP-21: structural integrity, safety, maintainability, reliability, fuel economy, emissions, noise, and performance. Recipients of the FTA grants are prohibited from using the FTA financial assistance to procure new buses that have not met the minimum performance standards established by this Final Rule. The FTA is also requiring bus manufacturers to provide country-of-origin information for test unit bus components, in lieu of applying Buy America U.S. content requirements to all buses submitted for testing.

#### **T.1.E The NDOT Vehicle and Large Equipment Procurement**

The purchase of FTA-funded vehicles begins with the subrecipient's application that describes the size and type of vehicle needed and the conditions under which the vehicle will be operated. The NDOT reviews the subrecipient’s vehicle request to confirm the size and type of vehicle needed. A letter describing the vehicle to be ordered and an approximate delivery date is sent to each subrecipient for signature agreeing to the vehicle with selected options. The NDOT develops the specifications for the requested vehicles and meets with the State Purchasing Division to order the vehicles. This section applies to purchases of equipment such as bus lifts, stationary bus washers, etc.

The State Purchasing Division mails a Request for Bid (RFB) to all registered vehicle vendors. This RFB includes a packet describing the FTA procurement regulations, and the specification for and number of vehicles being ordered for the State Transit Program (see Pre-Award/Post-Delivery section of this Chapter). The bids are opened on a specific date and time, and the qualified low bidder(s) is awarded the contract. The State Purchasing Division assures the NDOT that the accepted bid meets pre-award requirements, and the vehicle consultant assures the NDOT the proposed vehicles meet the requested specifications.

Once the contract is awarded by the State Purchasing Division, the selected vendor(s) orders the requested vehicles from the manufacturer. If more than ten (10) buses are ordered for one (1)

subrecipient, the NDOT or its designee will visit the manufacturer of the buses during the construction of the vehicles.

After the vendor has been selected, the NDOT's Equipment Division prepares a Purchase Order for each vehicle. The Purchase Order is forwarded to the State Purchasing Division who forwards it to the vendor to order the vehicles. The NDOT receives a copy of the Purchase Order and then notifies the subrecipient as to the required match for the vehicle. The Equipment Division is responsible for handling all inspections during the construction of buses. The vehicles are delivered to the NDOT's Equipment Division in Reno for inspection prior to delivery to the subrecipient.

If the NDOT approves of the service provided by the vendor, the vendor can continue to provide vehicles for three (3) additional years.

#### **T.1.F The NDOT Small Equipment Requests**

A subrecipient must request the NDOT approval for reimbursement of funds used to purchase office equipment such as computers, copiers, fax machines, etc. related to their transit service using a Capital Request Form. The subrecipient will receive written approval/denial from the NDOT based on the availability of capital funds. All procurement requirements as previously stated in this section must be followed.

#### **T.1.G Sole Source Procurement**

When a subrecipient requires products or services available from only one responsible source, and no other products or services will satisfy its requirements, a subrecipient may make a sole source award with prior the NDOT approval. Sole source awards are only appropriate if the following condition(s) apply:

- ◆ Unique Capability or Availability – The products or services are available from only one source if one of the conditions described below is present:
  - Unique or Innovative Concept – The offeror demonstrates a unique or innovative concept or capability not available from another source. Unique or innovative concept means a new, novel, or changed concept, approach, or method that is the product of original thinking, the details of which are kept confidential or are patented or copyrighted, and is available to the grantee only from one source and has not in the past been available to the grantee from another source.
  - Patents or Restricted Data Rights – Patent or data rights restrictions preclude competition.
  - Substantial Duplication Costs – In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.
  - Unacceptable Delay – In the case of a follow-on contract for the continued development or production of a highly-specialized equipment and major

components thereof, when it is likely that award to another contractor would result in unacceptable delays in fulfilling the grantee's needs.

In addition, when a subrecipient requires an existing contractor to make a change to its contract that is beyond the scope of that contract (a cardinal change), the grantee must treat the changes as if the subrecipient has made a sole source award that must be justified.

The NDOT must review and approve in writing all sole source procurements prior to any contract award. The State of Nevada's Purchasing Division website (<http://purchasing.nv.gov/waivers/>) can provide additional guidance on sole source procurements.

### **T.1.H Small Purchases**

The NDOT permits relatively simple and informal procurement methods for small purchases. Small purchase procurements require inclusion and acceptance of applicable Federal clauses. Visit the State of Nevada Purchasing Division's website (<http://purchasing.nv.gov/Contracts/ToolBox/>) for the thresholds for various purchases.

Written or oral quotes can be solicited. Three quotes, either written or oral, is considered a best practice. A quotation should be solicited from other than the previous supplier before placing a repeat order.

Whether quotations are solicited orally or in writing, the purchase record file should contain the following information:

- ◆ Name, address, and telephone number;
- ◆ Pertinent details on the offered items;
- ◆ Unit price and total price;
- ◆ Discount terms;
- ◆ Delivery times;
- ◆ FOB point
- ◆ Small, minority, and disadvantaged business information as appropriate;
- ◆ The person who provided the quote; and
- ◆ The time and date of the quote.

If a grantee receives a quote meeting bid specifications and requirements, the grantee shall award the contract to the lowest responsible and responsive offeror. The grantee may reject all quotes.

**Please note: Invitation for Bids (IFBs), Procurement by Sealed Bids, Request for Proposals, and Procurement by Competitive Proposals are handled by the NDOT through the State of Nevada Purchasing Division.**

### **T.1.I Subrecipients Written Procurement Selection Procedures**



The NDOT requires subrecipients to maintain written records detailing the history of each Federally-funded procurement, including:

1. Procurement Method: The rationale for the method of procurement, including a sole source justification for any acquisition that does not qualify as competitive;
2. Contract Type: State the reasons for selecting the contract type (fixed price, cost reimbursement, etc.);
3. Contractor Selection: State the reasons for contractor selection or rejection. Include a written responsibility determination for the successful contractor;
4. Cost or Price: Each subrecipient must evaluate and state its justification for the contract cost or price. [FTA C 4220.1F, III, 3. d. (1)]; and
5. Adequate documentation of the procurement, commensurate with its size and complexity. The documentation kept on file should include records of all phases of the procurement, from the initial advertisement and solicitation through the evaluation and award, any contract modifications, and close-out.

#### **T.1.J Required Contract Clauses**

Please note that Section 5311 subrecipients are responsible for ensuring that all required contract clauses are included in all procurements. As a reminder, one method of doing this is to use the National RTAP's free web based application "Procurement Pro." To access this application, go to (<http://www.nationalrtap.org/WebApps/ProcurementPro.aspx>).

#### **T.1.K Remedies for Breach of Contract**

All contracts, other than those awarded under small purchase procedures, are to include provision or conditions which stipulate remedies available to the grantee if the contractor violates or breaches the terms of the contract.

These provisions must allow for either administrative, contractual, or legal remedies, and provide for appropriate sanctions and penalties.

#### **T.1.L Contract Termination**

All contracts exceeding \$10,000 must include provisions that stipulate the conditions under which the grantee may terminate the contract for either default or convenience. In a termination for default, the contractor must fail to comply with certain terms and conditions of the contract. The contractor is paid only for supplies delivered and accepted by the grantee or for the services performed in agreement with the grantee.

If there is a good reason beyond the contractor's control that prevents compliance with the contract provisions, the contractor may be allowed to continue work or the contract can be terminated for convenience. For convenience terminations, the contractor should be paid all closeout costs and a partial fee as provided in the contract.

#### **T.1.M Construction**

The NDOT agrees to comply with and ensure compliance of its subrecipients of all applicable statutes, regulations, and requirements, and follow the FTA guidance in the development and implementation of construction plans and specifications, including drafting, review, and approval. Additionally, the NDOT will follow all State, Federal and the FTA procurement requirements regarding construction projects including the securing of architectural and engineering services as well as meet all environmental requirements applicable to the construction project.

Applicants considering facility construction and/or facility renovation should contact the NDOT Transit Section to identify potential funding sources and requirements. Currently, only 5339 funds are used for these types of projects.

The NDOT and its grantees will comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. § 7701 et seq., and U.S. DOT regulations, "Seismic Safety," 49 C.F.R. part 41, specifically, 49 C.F.R. § 41.117. 57 FTA Master Agreement MA (23), 10-1-2016 c.

The NDOT and its grantees agree to maintain competent and adequate engineering supervision at the construction site of any Project to ensure that the completed work conforms to the approved plans and specifications.

For any project or related activities involving construction, the NDOT and its grantees agree to provide progress reports and other relevant information or data, as required by the FTA or the state in which construction takes place.

The NDOT agrees to comply and assures that its subrecipients will comply with all Federal laws, regulations, and requirements providing protections for construction employees involved in each project or related activities with Federal assistance, including the:

1. Prevailing Wage Requirements of:
  - a) Federal transit laws, specifically 49 U.S.C. § 5333(a), (FTA's "Davis-Bacon Related Act"),
  - b) The Davis-Bacon Act, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147, and
  - c) U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.
2. Wage and Hour Requirements of:
  - a) Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and
  - b) U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.
3. "Anti-Kickback" Prohibitions of:
  - a) Section 1 of the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874,
  - b) Section 2 of the Copeland "Anti-Kickback" Act, as amended, 40 U.S.C. § 3145, and

- c) U.S. DOL regulations, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States,” 29 C.F.R. part 3.
- 4. Construction Site Safety of:
  - a) Section 107 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3704, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and
  - b) U.S. DOL regulations, “Recording and Reporting Occupational Injuries and Illnesses,” 29 C.F.R. part 1904; “Occupational Safety and Health Standards,” 29 C.F.R. part 1910; and “Safety and Health Regulations for Construction,” 29 C.F.R. part 1926.

### **T.1.N Architectural and Engineering Services**

A project will retain architectural and engineering (A/E) consulting services in accordance with competitive proposal procedures for qualifications-based procurement as outlined in the FTA Circular 4220.1F and in accordance with the NDOT and the State of Nevada. This type of procurement will, also, be used for architectural and engineering related services such as program management, construction management, feasibility studies, preliminary engineering, design, surveying, mapping, or related services. Following this method, competitors' qualifications are evaluated, and the most qualified competitor will be selected subject to negotiation of fair and reasonable compensation. The scope of work in the project's Request-for-Proposal (RFP) will incorporate planning procedures for design and construction of capital improvement projects. The NDOT will approve the negotiated contract between the project and the architectural/engineering consultant. The selected architectural/engineering consultant will not commence work on the project until receipt of the executed design agreement.

### **T.1.O Major Capital Investment Projects**

If the NDOT's project involves a Major Federal Project, it agrees to comply with all applicable Federal regulations, including the FTA regulations, “Major Capital Investment Projects,” 49 C.F.R. part 611, and “Project Management Oversight,” 49 C.F.R. part 633, to the extent that they are consistent with applicable FTA enabling legislation, and follow all applicable Federal guidance.

### **T.1.P Cargo Preference**

To ensure fair and reasonable participation by privately owned U.S. flag vessels in transporting cargoes that are subject to the Merchant Marine Act of 1936 - including equipment, materials or commodities procured, contracted for or otherwise obtained within or outside the U.S. with funds made by or on behalf of the U.S. appropriate clauses will be inserted by the NDOT in all third-party contracts where the possibility exists for ocean transportation of such items. The clauses must provide that a least 50% of the gross tonnage generated by the contract be transported on U.S. flag vessels.

### **T.1.Q Clean Air and Clean Water Acts**

For all contracts exceeding \$100,000 the NDOT will include a provision that commits the contractor to complying with the requirements of Section 508 of the Clean Water Act and Section 306 of the Clean Air Act. These regulations prohibit the use of facilities included in the EPA “List of Violating Facilities” under exempt Federal contracts. In addition, grantees must report all suspected violations.

### **T.2 Financial Management of Subrecipients**

The NDOT ensures that all subrecipients have adequate financial management procedures in place for the satisfactory continuing control of all Federal awards, project expenditures, and revenues.

#### **T.2.A Subrecipient Financial Management System**

Subrecipients must follow the FTA, State, and the NDOT regulations and policies. Subrecipients are required to keep separate files for transit projects that are available for inspection always.

The NDOT has internal controls to ensure that Office of Management and Budget (OMB) Cost Principles are followed, in accordance with 2 CFR 200 (Super Circular ([http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl))). Expenditures made by the subrecipients are reimbursable if they are contained within the appropriate Cost Principles of the Super Circular (2 CFR 200) and are:

1. In conformance with the project description and budget as well as other provisions of the subrecipient Agreement;
2. Necessary to accomplish the project;
3. A reasonable amount for the goods or services expended;
4. The actual net cost;
5. Incurred and performed within the Agreement timelines; and
6. Supported with invoices and proper documentation.

Each subrecipient and/or service provider must have in place the requisite financial management system that ensures the entity meets Federal requirements for record retention, methods of storage, access to records, and restriction on public access. Financial management systems must, at a minimum:

1. Identify, in its accounts, all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the CFDA title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.
2. Maintain accurate, current, and complete disclosure of the financial results of each Federal award or program.

3. Keep records that identify adequately the source and application of funds for Federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.
4. Demonstrate effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes.
5. Compare expenditures with budget amounts for each Federal award.
6. Develop written procedures to implement payment procedures when drawing funds directly from the Treasury.
7. Develop written procedures for determining the allowability of costs.

As a rule, subrecipients will establish transit as a separate cost center (department or fund within the accounting system) to track direct costs associated only with the program. In addition, the subrecipient should also develop a cost allocation plan in accordance with 2 CFR Part 200 ([http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)), to equally distribute common or indirect costs between the Section 5311 program and other services.

An agency's overall control environment sets the tone of the organization and influences the financial consciousness of its employees. To successfully address risks and achieve its objectives, agency management must institute various measures, such as segregation of duties, internal controls, and a system of approvals.

All subrecipient financial management systems should meet the following generally accepted accounting principles:

1. *Financial reporting.* Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the subrecipient agreement.
2. *Accounting records.* Records must be maintained which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.
3. *Internal control.* Effective control and accountability must be maintained for all grant cash, real and personal property, and other assets. Subrecipients must adequately safeguard all such property and must assure that it is used solely for authorized purposes.
4. *Budget control.* Actual expenditures or outlays must be compared with budgeted amounts for each grant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subrecipient agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

5. *Allowable cost.* Applicable Office of Management and Budget (OMB) cost principles, agency program regulations, and the terms of grant and subrecipient agreements will be followed in determining the reasonableness, allowability, and allocability of costs.
6. *Source documentation.* Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract documents, etc.

Oversight is regularly monitored based on desk reviews, invoices and reporting that is received from the subs and the auditing and monitoring that is conducted by the NDOT.

### **T.2.B Allowable Costs**

Costs, consistent with the approved project budget, are allowable to the extent they meet the following criteria:

1. Necessary and reasonable for proper and efficient performance or administration of the transit program;
2. Allocable to the Section 5311 program;
3. Recognized in the approved project budget and not be prohibited under the laws or guidance of the NDOT;
4. In conformance with the principles, limitations, and exclusions in 2 CFR Part 200;
5. Consistently treated in accordance with the procedures that apply to the unit of local government;
6. Accorded consistent treatment by the local government in terms of classification (*e.g.*, an indirect cost under one Federal grant is considered an indirect cost under all Federal grants received by the governmental unit) Indirect cost rates must be pre-approved by the NDOT;
7. Determined in accordance with generally-accepted accounting principles;
8. Excluded as a cost used to meet local matching requirements for other Federal grants;
9. Net of all applicable credits; and
10. Adequately documented.

### **T.2.C Unallowable costs**

The following types of expenses are **ineligible for reimbursement** under the 49 U.S.C. Section 5311 program:

1. Entertainment
2. Fines and penalties
3. Charitable donations
4. Interest expense on long-term borrowing and debt retirement
5. Advisory councils unless prior the NDOT approval has been granted
6. For private mass transportation operators, provision of Federal, State and local income taxes
7. Indirect transit-related functions or activities of regional or local entities performs as a normal consequence of public administration (*e.g.* expenses of a City Council or County Commission in considering transit matters)
8. Depreciation accrued by public operators, depreciation of facilities or equipment purchased with public (*e.g.*, Federal, State, local) capital assistance, depreciation of an

- intangible asset and/or depreciation more than the rate otherwise used for income purposes
9. Expenses for contingencies or capital assistance including contributions to a capital reserve account or fund

Additionally, the following are also not eligible for reimbursement under the Section 5311 program.

1. Gift cards
2. Gifts of food items, such turkeys or hams during the holidays
3. Bereavement or get-well flowers or food
4. Other similar items

Finally, the NDOT does not allow systems to charge depreciation to the Section 5311 program. This includes the depreciation of vehicles and equipment purchased with local funds as well as vehicles and equipment purchased with Federal or State funding.

The above lists should not be considered all inclusive; 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Super Circular) should always be consulted for any questionable expense.

### **T.2.D Accrual Accounting**

Subrecipients may use cash, modified cash, or accrual accounting system to maintain financial transactions. However, consistent with the FTA C 9040.1G, the NDOT requires all Section 5311 funded systems to use the accrual basis of accounting when submitting monthly invoices.

### **T.2.E Reimbursement of Expenses to Subrecipients**

All costs must be in accordance with 2 CFR Part 200 (Super Circular), Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Subrecipients must submit their requests for reimbursements with clear, convincing and reliable documentation. If the request includes third-party in-kind contributions, the contributions must be necessary to accomplish program activities and allowable if the subrecipient were required to pay for them. The subrecipient must show how it arrived at the valuation placed on third-party in-kind contributions and be approved by the NDOT.

Program income must be used in accordance with 2 CFR 200. Invoices must have an invoice number, CFDA number, the name and address of the subrecipient, the NDOT Agreement number and all back up substantiating the request. The invoice must clearly state the time for which the reimbursement is being requested. All requests for reimbursement should be submitted to the Transit Section of the NDOT within thirty (30) days following the end of the reimbursement period.

The NDOT may, on a case-by-case basis, pay a subrecipient for monthly recurring work performed in advance of services. Eligibility for this type of payment will be at the NDOT's

discretion and based on a subrecipient’s ability to sustain its services and the benefits of the services being performed to the community and the State of Nevada.

**T.2.F Invoice Payment**

Each subrecipient must submit a monthly invoice for reimbursement of expenses incurred because of operating its transit program. Invoices may include three types of expenses: administrative, capital, and operating.

*Administrative (PAG):* The State may treat project administrative expenses incurred by a local transit provider as a separate cost category from capital, or operating expenses. This allows states to consider administrative expenses as “non-operating’ expenses. The FTA may fund non-operating expenses up to an eighty (80%) percent Federal share. Eligible project administrative costs may include, but are not limited to: general administrative expenses (e.g., salaries of the project director, secretary, and bookkeeper); marketing expenses; insurance premiums or payments to a self-insurance reserve; office supplies; facilities and equipment rental; standard overhead rates; and the costs of administering drug and alcohol testing.

*Capital (CPG):* Eligible capital expenses include the acquisition, construction, and improvement of public transit facilities and equipment needed for a safe, efficient, and coordinated public transportation system. Examples of capital expenses include, but are not limited to, radios and communications equipment, wheelchair lifts and restraints, vehicle rehabilitation, preventive maintenance, and operational support such as computer hardware or software.

*Operating (OPG):* Operating expenses are those costs directly related to system operations. At a minimum, states must consider the following items as operating expenses: fuel, oil, drivers’ salaries and fringe benefits, dispatcher salaries and fringe benefits, and licenses.

Each type of expense is reimbursed at a different rate. This means that Federal funding can be used to pay for a certain percentage of the expense, depending on the type, described above. The remainder of the expense must be paid by the subrecipient as “match” to the project. The following explains the rates for each expense type.

	<b>Federal Share</b>	<b>Local Share</b>
PAG	80%	20%
CPG	95%	5%
OPG	60%	40%

Invoices may be submitted on the grantee’s stationery using the NDOT’s format or submitted on the NDOT’s standard invoice form.

**T.2.G Budget revisions**

Revisions to the Approved Program of Projects are normally requested by subrecipients in consultation with the Rural Transit Program Specialists and the Manager of Transit Programs in accordance with the provisions outlined in the FTA Circular 9040.1G. Budget revisions are



reviewed and approved by the Rural Transit Program Specialists and the Manager of Transit Programs. Written contract amendments developed for increases in funding above those approved in the annual program of projects are signed and executed by the Director and subrecipient designee.

All budget revisions must receive prior, written approval from the NDOT.

### **T.3 Property Management**

Subrecipient procedures for managing equipment must be in place, whether acquired in whole or in part with grant funds, until disposition takes place. This includes maintaining adequate property records, a physical inventory, a control system, adequate maintenance procedures, and proper sales procedures, if property has been approved for disposition. Please see [Section P](#) on Page 40 for full vehicle and facility maintenance requirements.

#### **T.3.A Title to Vehicles**

A lien on the title of all vehicles purchased with the FTA funds through the NDOT is held by the NDOT until the useful life of the vehicle has been met. The subrecipient shall maintain all licensing and insurance requirements for the vehicle. At the time, the vehicle has met useful life, the title will be signed over to grantee and must be re-titled with the Department of Motor Vehicles (DMV) by the grantee, removing the NDOT from the title.

#### **T.3.B Satisfactory Continuing Control and Responsibility**

When vehicles, capital equipment, or facilities are acquired, built, or improved for use by any entity utilizing the FTA funding, the NDOT takes provisions to ensure satisfactory continuing control of the vehicles, capital equipment, and facilities funded. While the NDOT may delegate these responsibilities to another entity, the NDOT is ultimately responsible for compliance with this requirement.

The NDOT establishes continuing control over the vehicles and accepts the responsibility for continued public transit use of the vehicles, and more particularly use for Section 5310 purposes by the subrecipient.

### **T.4 Maintenance and Disposition**

#### **T.4.A Maintenance**

Please see [Section P](#) on Page 40.

#### **T.4.B Vehicle Disposition**

The NDOT disposes of all vehicles in accordance with the FTA procedures and/or State of Nevada procedures. The guidance regarding various types of vehicle disposition is regulated by

the State of Nevada’s Purchasing Division and is available at (<http://purchasing.nv.gov/LocalGov/ExcessVehListing/>).

**T.4.C Vehicle Disposition from Collision or Damage or End of Useful Life**

The disposition of a vehicle before the end of its useful life requires prior FTA approval per the FTA’s and the NDOT’s Master Agreement. The proceeds from the sale, insurance settlement, or trade-in of the vehicle may be used to offset the cost of a replacement vehicle or put back into the program for future vehicle procurements.

**T.4.D Determination of Fair Market Value**

The fair market value for vehicles and equipment may be determined using straight-line depreciation.

**T.4.E Passenger Vehicle Classification and Useful Life Standards**

The NDOT has adopted the FTA’s useful life guidelines of specified vehicles. The NDOT will release its interest in a vehicle that has reached useful life on the anniversary of the date the vehicle is placed into revenue service. **However, merely obtaining sufficient miles and years on a vehicle does not guarantee Federal capital assistance for its replacement.** The FTA guidelines for useful life are as follows:

**The FTA Useful Life Guidelines**

<b>Type of Vehicle</b>	<b>Useful Life</b>
Minivans and Vans	4 years or 100,000 miles
Minibuses w/four wheels	5 years or 150,000 miles
Minibuses, cutaway style, dual rear wheels, wheelbase up to 158”	5 years or 150,000 miles
Minibuses, cutaway style, dual rear wheels, wheelbase 159”-181”	5 years or 150,000 miles
Buses, GVW 14,000-19,000 lbs.	8 years or 200,000 miles
Buses, GVW 19,001-27,000 lbs.	9 years or 350,000 miles
Buses GVW greater than 27,000 lbs.	12 years or 500,000 miles

**T.5 State of Nevada Accounting Systems**

In adopting the State (Nevada) Accounting Procedures Law (NRS 353.291), it is the Nevada Legislature’s intent to establish an accounting system that:

- ◆ Presents fairly and with full disclosure the financial position and the results of financial operations of the funds of the State in conformity with generally accepted accounting principles; and
- ◆ Determines and demonstrates compliance with legal and contractual requirements related to finance.

Nevada's accounting system is operated by the Controller and records and reports all monies received and disbursed by the State agencies, including the NDOT, through the timely recording of deposits and disbursements within an accounting structure that adheres to the legal/budgetary requirements. The Controller administers the provisions of the State Accounting Procedures Law, and in this capacity, provides and maintains the State accounting system which produces financial statements, budgetary reports, and management reports both statewide and by agency. The Controller is responsible for promulgating and establishing accounting policy. State Accounting Policies and Procedures are at ([http://budget.nv.gov/uploadedFiles/budgetnvgov/content/IAudits/Forms/Acctg\\_PoliciesProcedures.pdf](http://budget.nv.gov/uploadedFiles/budgetnvgov/content/IAudits/Forms/Acctg_PoliciesProcedures.pdf)).

Please refer to Financial Management System of Subrecipients ([Section T.2](#) on Page 54) for information on subrecipient financial/accounting systems.

### **T.6 Resolution of Audit Findings**

The Internal Audit Division of the NDOT will conduct audits on subrecipient agreements upon completion of the agreement. The Internal Audit Division also reviews any required single audits for findings related to the transportation program. Any agency audit including single audits must be conducted by a CPA firm in good standing with the State of Nevada.

#### **T.6.A Audit Requirements for Agencies Receiving \$750,000 in Federal funds (2 CFR part 200, subpart F Audit Requirements)**

In accordance with 2 CFR § 200.501(a) and (b), subrecipients that expend \$750,000 or more in a year in Federal assistance from all sources must have a single audit conducted, except when they elect to have a program-specific audit conducted, 2 CFR § 200.501(c). The audit must be completed and the data collection form and reporting package must be submitted within the earlier of thirty (30) calendar days after receipt of the auditor's report(s), or nine (9) months from the end of the audit period. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day.

Audit reports are to be submitted to the National Clearinghouse for Single Audit Reports website, which also includes frequently asked questions (<https://harvester.census.gov/facweb>).

A copy of the final audit report must be sent within nine (9) months of the close of a subrecipient's fiscal year to:

Nevada Department of Transportation  
ATTN: Chief Auditor  
1263 South Stewart Street  
Carson City, NV 89712

Subrecipients are required to submit one copy of their annual single audit report to the FTA if the audit report contains any findings and recommendations related to the FTA program or other DOT program findings. In those cases, in which the audit report does not contain any FTA findings or recommendations, a copy of only the Federal Clearinghouse transmittal sheet “Data Collection Form for Reporting on Audits of States, Local Governments, and Nonprofit Organizations, OMB Form SF-SAC” should be submitted to the FTA regional or metropolitan office. Subrecipients must keep one copy of the data collection form and one copy of the audit reporting package on file for three years from the date of submission to the Federal Clearinghouse. Pass-through entities must keep subrecipients’ submissions on file for three years from date of receipt. (Please refer to the FTA C 5010.1E.)

### **T.6.B Audit Findings**

The NDOT subrecipients are responsible for prompt resolution of all audit findings and recommendations. This responsibility requires that each subrecipient:

1. Promptly evaluate the report;
2. Determine the appropriate follow-up actions and establish a date for their completion;  
and
3. Complete all required actions within the established period.

Deficiencies or opportunities for improvement identified in an audit must be resolved by the subrecipient. The resolution of audit findings begins with the NDOT’s report to the subrecipient and continues until the subrecipient corrects identified deficiencies, implements needed improvements, or demonstrates that the findings or recommendations are not valid or do not warrant management action.

The audit is not resolved until the NDOT concurs in the documentation of steps taken to implement any needed corrective actions.

The status of outstanding audit findings and recommendations are monitored and reported by the subrecipient in quarterly progress reports to the NDOT.

### **T.7 Closeout of Projects/Grants**

The NDOT is required by the FTA to review all open grants and process closeouts when all monies have been expended, the grant is expired, or the project has been completed. Subrecipients should complete projects within the allocated time frames. Capital grants for equipment remain active until the useful life has been met.

### **T.8 Record Retention**

The NDOT and subrecipient financial records, supporting documentation and all other records pertinent to a grant must be retained for three (3) years after an Internal Audit has been completed and a Final Financial Status Report has been submitted to the FTA by the NDOT. *If any*

*litigation, claims, or an audit is started prior to the disposal date of the records, the records must be retained until all litigation, claims, or audit findings have been resolved.*

### **T.8.A Record Keeping and Required Reports**

The information the NDOT subrecipients collect, monitor, and report is needed to assess the performance of their transit services as well as to document compliance with Federal requirements. An important element to reporting is to ensure that the data is as accurate as possible by taking steps to collect it accurately. This information is then tabulated for monthly, quarterly, and annual reports. In addition, transit managers have the primary responsibility for monitoring and reporting system performance on a daily, weekly, and monthly basis. Required the NDOT reports include:

#### ◆ Quarterly Reports

1. Quarterly Ridership Report (the NDOT approved form)
  - Due no later than 30 days from the last date of each quarter. (Example: January-March is due no later than April 30)
2. Quarterly Vehicle Performance Measurement Report (the NDOT approved form)
  - Due no later than 30 days from the last date of each quarter. (Example: January-March is due no later than April 30)
3. Quarterly written copies of current routes, schedules, and fares of the Transportation System
  - Due no later than 30 days from the last date of each quarter. (Example: January-March is due no later than April 30)
4. Quarterly written Progress Report (the NDOT approved form)
  - Due no later than 30 days from the last date of each quarter. (Example: January-March is due no later than April 30)
5. Milestone/FFR Report *\*May be required quarterly or annually depending on grant*
  - Due no later than 30 days from the last date of each quarter. (Example: January-March is due no later than April 30)

#### ◆ Semi-Annual Reports

1. DBE Semi Annual Report (the NDOT approved form)
  - Due to the NDOT no later than May 1 and November 1 of each year

#### ◆ Annual Reports

1. Transit Asset Management (TAM)
  - Due no later than October 1 of each year
2. National Transit Database (NTD)
  - Due October 31 of each year, Report Closeout is March 15 of each year
3. Drug and Alcohol Management Information System (DAMIS)
  - Due no later than March 15 of each year
4. Milestone/FFR Report *\*May be required quarterly or annually depending on grant*
  - Due no later than 30 days from the last date of the contract year. (Example: Contract spans from October 1-September 30, the report is due no later than October 30 of each year)

- ◆ Other Required Reporting
  1. Title VI Plan
    - Required every 3 years
  2. DBE Goal methodology
    - Required every 3 years (on or before August 1)
  3. EEO Programs
    - Required every 4 years

The NDOT Transit Manager must be notified as soon as possible of any significant variances in system performance and/or approved budget.

**T.9 Subrecipient Monitoring (Sections 5310, 5311, 5339)**

**T.9.A Subrecipient Monitoring**

The NDOT is responsible for ensuring that all subrecipients of the FTA funds comply with all applicable Federal and State regulations and program requirements. The NDOT has developed specific monitoring practices that provide for the comprehensive oversight of subrecipients and ensures compliance with all provisions relative to project administration, management, and operations.

In addition, all subrecipients subject to the FTA Drug and Alcohol regulations under 49 CFR Part 40 and 49 CFR Part 655 will be monitored on-site every year. The NDOT will also provide Management Information System (MIS) reporting oversight as required by the FTA Drug and Alcohol reporting process.

The NDOT will use the following monitoring methodologies to provide subrecipient oversight and ensure compliance with specific program requirements. The Application and Agreement processes include on-going review and monitoring of the required annual Certifications and Assurances and reporting requirements.

The NDOT staff or designees perform on-site and office monitoring reviews which often require standardized checklists to ensure that reviews are consistent with specific State and Federal regulations and program requirements. On-site monitoring is scheduled on a calendar cycle, but may occur at any time as deemed necessary by the NDOT. Monitoring reviews will be conducted in accordance with the following guidelines:

**The NDOT Monitoring Reviews**

<b>Guidelines</b>	<b>Timeframe</b>
Pre-Monitoring Review	Prior to Agreement Process
New Subrecipient Review	Upon Execution of Agreement
General Compliance On-Site Monitoring	Biennially
Drug and Alcohol Review (on-site)	Annually

Drug and Alcohol Reporting (MIS)	Annually
ADA Policy Compliance	Annually
Ridership/Maintenance Reports	Monthly
Follow-up/Corrective Action Review	As Needed
Vehicle Inspection Review	Biennially
Special Monitoring	As Needed

**T.9.B General Compliance Monitoring**

Subrecipient monitoring is conducted by the NDOT or its designees. The monitoring program includes worksheets that verify information about the subrecipient, such as contact name, address, agreement number and location of the site. It also identifies use and condition of vehicles being used in the program, and inquiries about the subrecipient’s compliance with Federal and State regulations and procedures.

Areas covered by the monitoring program may include Administration and Management, Reporting Procedures, Facilities and Property Management, Personnel and Training, Operations and Service Provision, Fleet Characteristics, Maintenance, Safety, Budget, Cash Disbursement, Service Planning and Marketing, and Public Involvement.

**T.9.C Special Monitoring**

The special monitoring of specific programs and activities required by State and Federal regulations includes, but is not limited to:

- ◆ Americans with Disabilities Act (ADA)
- ◆ The FTA Drug Free Workplace Act (DFWA)
- ◆ The FTA Drug and Alcohol (D&A) Testing Program
- ◆ Compliance with the FTA Procurement Practices
- ◆ The requirements set forth the NDOT Agreements and any other materials issued by the NDOT (e.g. Vehicle Maintenance Programs, Driver Training, guidance, etc.)

**T.9.D Service Monitoring**

The Service Monitoring system is used to review and examine the preservation of service standards. The monitoring consists of routes, schedules, and ridership reviews. In addition, customer complaints are investigated during monitoring.

**T.9.E Performance Monitoring**

The Performance Monitoring system reviews are to determine compliance with Federal and State regulations and the subrecipient Agreements. Budgets are reviewed to verify planned verses actual expenditures; and reports are reviewed for accuracy and timeliness.

## **U. OTHER PROVISIONS**

Other provisions apply to the FTA Sections 5310, 5311, and 5339 grants as indicated.

### **U.1 Labor and Section 5333(b) Warranty**

For almost all Federal transit programs involving transit operations, 49 U.S.C. § 5333(b), <https://www.dol.gov/olms/regs/compliance/compltransit.htm> require that fair and equitable arrangements must be made to protect the interests of employees affected by such assistance. The United States Department of Labor (USDOL) is responsible under Federal law for the administration of Section 5333(b).

The NDOT addresses issues relating to Section 5333(b) Special Warranty, Labor Protection Provisions, as part of the Section 5311 application process. When the NDOT recommends a project for funding, each subrecipient is required to provide a written acceptance of the terms and conditions of the Special Section 5333(b) Warranty. The written acceptance provides assurance that the subrecipient agrees to be bound by certain portions of the National (Model) Agreement. Additionally, subrecipients are required to list all (private or public) providers of public transportation, in their services area, in the Section 5311 application. Each Section 5311 subrecipient will contractually assure compliance with the provisions of Section 5333(b) of the Federal Transit Law, indicating that the project will be carried out in such a manner and upon such terms and conditions as will not adversely affect employees of the Section 5311 project and of any other surface public transportation provider in the subrecipient's service area. All Section 5311 applicants will assure compliance with the above through the application process.

In 1974, the Secretary of Transportation determined that it was not "necessary or appropriate" to apply the conditions of Section 5333(b) to organization subrecipients under the Section 5310 program.

The NDOT ensures that all projects comply with NEPA and other environmental laws when they are applicable to the project. The NDOT also ensures compliance with these provisions on behalf of subrecipients.

### **U.2 Buy America**

The Buy America regulations state that no FTA funds may be used to purchase vehicles unless all steel, iron and manufactured products used in building the vehicle are produced in the United States. In addition, components used in the vehicle that are produced in the United States must cost more than 60 percent of all components used in the vehicle, and final assembly must take place in the United States.



The FTA's Buy America requirements apply to construction contracts and acquisition of goods or rolling stock (valued at more than \$100,000). Specific requirements for pre-award and post-delivery audits apply to the purchase of rolling stock. The NDOT awards all vehicle term contracts in compliance with the FTA's Pre-Award/Post-Delivery Requirements. Grantees conducting direct purchase of vehicles are responsible for complying with all Buy America provisions.

The NDOT and the State Purchasing Division work together to ensure that all new vehicles purchased comply with 49 U.S.C. 323(j), the FTA regulations "Buy America Requirements," 49 CFR Part 661, and any implementing guidelines the FTA may issue. Applicants for the FTA funds must certify to the NDOT that they will abide by all applicable procurement requirements imposed by Federal law, executive order, or regulations including the Buy America requirements when purchasing equipment. Refer to (<https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5;node=49%3A7.1.2.1.18>) for more information.

### **U.3 Pre-Award and Post-Delivery Reviews**

Vehicle procurements, other than sedans or unmodified vans, must be audited in accordance with the FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR Part 663. The NDOT conducts pre-award and post-delivery reviews to assure compliance with bid specifications, Buy America requirements, and Federal Motor Vehicle Safety Standards requirements. Since the State Purchasing Division conducts the procurement of the NDOT's transit vehicles, it has been given the responsibility of ensuring bidders (vendors) abide by the pre-award and post-delivery regulations.

The State Purchasing Division is required to conduct a pre-award audit of the bid specifications and a pre-award Buy America audit of the bidders wishing to sell transit vehicles to the State. The State Purchasing Division encloses with the bids a packet of information explaining the FTA regulations and required the FTA certifications. The bidder must submit a signed Buy America Certification with a list of proposed components, subcomponents and final assembly information; and a signed Bus Testing Certification; Federal Motor Vehicle Safety Standard (FMVSS) certification; lower-tier FMVSS Certification; Debarment and Suspension Certification, Lobbying Certification, and Nevada Certification on Experience.

Upon vehicle delivery, the State Purchasing Division conducts a Post-Delivery audit for Buy America and Federal Motor Vehicle Safety Standards. The Division then certifies that Buy America regulations are still being met and the vendor has furnished the required Federal Motor Vehicle Safety Standards certification. If the vehicles do not meet Buy America and/or Federal Motor Vehicle Safety Standards, the vehicles are rejected.

The NDOT's responsibilities include developing vehicle specifications according to the NDOT's process (see Vehicle and Procurement in this Chapter), in-plant inspections of vehicles when required, and conducting the post-delivery determination that the delivered vehicles meet the bid specifications and are free from defects. The NDOT inspects and road tests all delivered vehicles. If defects are identified or specified equipment is missing from the vehicle, the NDOT

works with the vendor to ensure that all identified defects and/or missing equipment is corrected before the vehicle is delivered to the grantee.

Grantees who undertake direct procurements with the FTA funds, i.e. separate from the NDOT process, are responsible for ensuring that **ALL** federal requirements are met. The NDOT will provide direct oversight to ensure the FTA and the State of Nevada Procurement Policies and Procedures are adhered to through desk monitoring throughout the process.

#### **U.4 Prohibition of Exclusive School Transportation**

The NDOT ensures through technical assistance and oversight that subrecipients are prohibited from providing exclusive school bus service unless the service qualifies under an allowable exemption and is approved by the FTA Administrator. The NDOT makes subrecipients aware that in no case can the FTA-funded equipment or facilities be used to provide exclusive school bus service.

#### **U.5 Drug and Alcohol Testing Including State Procedures for Monitoring Compliance by Subrecipients**

Implementation of the FTA's drug and alcohol regulations affect all aspects of a subrecipient's transit operation, including boards or commissions, the employees, the personnel system, and subcontractors. If services are subcontracted, subrecipients are responsible for ensuring and monitoring subcontractor compliance. In addition, subrecipients must also create new contractual relationships, including but not limited to those with appropriately qualified medical review officers (MROs), substance abuse professionals (SAPs), breath alcohol technicians (BATs), screening test technician (STTs), collection sites, certified drug testing laboratories, certified alcohol testing facilities, etc. All of the NDOT Section 5311 subrecipients are required to comply with and participate in the NDOT's drug and alcohol program. For those subrecipients without their own contracted testing programs, the NDOT will assist the agency and provide additional guidance.

##### **U.5.A The NDOT Drug and Alcohol On-Site Reviews**

Periodic reviews are undertaken on behalf of the Division by consultants employed by the Division to ensure that a subrecipient's drug and alcohol program is following the FTA regulations. These occur periodically; however, additional reviews can occur sooner depending upon the outcome of the review, change in agency personnel, or in the event the subrecipient is selected for review as part of the NDOT's FTA audit.

Ensuring that the program is compliant with the FTA drug and alcohol regulations is part of the NDOT's oversight responsibilities and a condition of the FTA funding. Generally, the subrecipient will be asked similar questions to those an FTA drug and alcohol auditor would ask. In addition to a review of the subrecipient, the subrecipient's collection site may also be visited. A written report will be issued with any required correction actions noted.

## **U.6 Safety and Security**

### **U.6.A Security**

The NDOT has recognized the need for increased security awareness, and the need to protect its facilities, equipment, and the transportation infrastructure from physical damage or from being rendered inoperable, as best we can. The State of Nevada, in accordance with Nevada Revised Statutes, Chapter 414 (NRS 414), is required to mitigate against, prepare for, respond to, and recover from emergencies/disasters to provide assistance that saves lives and protects health, safety and property. These emergencies/disasters may range from a small, localized event to a large-scale event which requires a Presidential Declaration.

A disaster may severely damage the transportation infrastructure. The damage inflicted may influence the means and accessibility of relief services and supplies. The NDOT is responsible for keeping State highways and roads repaired and open during a disaster and will assist in traffic control on these routes. This will normally be accomplished through the NDOT District Engineers and Managers at the Maintenance District level.

The Department of Homeland Security (DHS) issued Homeland Security Presidential Directive – 3, the Homeland Security Advisory System (HSAS). The HSAS provides five graduated threat conditions identified by both word and color, with appropriate security countermeasures for each threat level. Its implementation is mandatory for Federal facilities and is strongly recommended for State, local and private facilities. The HSAS stated that it strongly appears to be in the Nation’s interest for States/State Department of Transportations to have a “parallel” system to reduce confusion and facilitate needed countermeasure implementation as appropriate during heightened security threat levels. Following the issuance of the HSAS Directive, the American Association of State Highway and Transportation Officials (AASHTO) established a Transportation Security Task Force which is requesting each State DOT to thoroughly evaluate existing security threat and countermeasures in place, documenting the State DOT’s security system, and providing guidelines to secure the nation’s highways and bridges.

The NDOT has developed a Facility and Transportation Infrastructure Security Plan to provide guidelines for security at our facilities. This plan addresses employee training in what to watch for and how to respond to a suspected security problem, the appropriate actions to take regarding the security of the NDOT’s mobile fleet, and physical measures which can be taken to protect our facilities.

The NDOT expects all subrecipients to operate the FTA-grant funded vehicles in a manner that is consistent with any Transportation Services Authority (TSA) requirements. TSA advises transit providers to follow industry guidelines prohibiting items such as firearms, ammunition, flammable materials, mace, knives, and explosives. It also produced a “*Guide to Motorcoach Security*” which provides general guidelines and tips. The TSA recommends that passengers consult with the transportation provider or operator for a prohibited items list, as it will vary by provider.

The NDOT Transit Section staff are also contact members on the NDOT's Emergency Operations Plan and participate in mock emergencies. They are responsible for locating available vehicles to help dispatch to areas where they may be needed.

Additionally, many buses in rural areas of Nevada have installed security cameras; the NDOT has also requested cameras for new buses on order. Some buses in Nevada have also installed lights on top of their vehicles that alert police if they are in distress. Within the urbanized areas of the State, the MPOs are responsible for developing their own regional transit security strategies.

The RTC of Southern Nevada has adopted a Regional Transit Security Strategy that provides an optimal all-hazard approach, to preparedness, prevention, response, and recovery programs. The transit agencies in Southern Nevada focus their efforts on the prevention of an attack on the transit system.

The RTC of Washoe County considers security of the transportation system an important factor in the development of the objectives and policies for all modes of travel. RTC's safety and security administrator regularly coordinates with the Department of Homeland Security and other emergency preparedness and law enforcement agencies to manage security issues in the region, and to help prevent major disasters from occurring. The RTC has a policy in place that states they will work with local, State, and nationwide law enforcement agencies to enhance the security of public transportation. It also has an extremely active security update program including the installation of surveillance cameras on buses, an automatic vehicle locator (AVL) program on all agency vehicles.

The Carson Area Metropolitan Planning Organization (CAMPO) has a goal to increase the security of all modes of the transportation system. It has installed surveillance cameras and Global Positioning Systems on all their transit busses. In general, CAMPO encourages the use of all technologies, tools, and strategies that have the potential to improve the security of the residents in the region and visitors.

In the Lake Tahoe Basin, BlueGO's vehicles are being equipped with automated GPS vehicle location (AVL), mobile data terminals (MDT), and radio data and voice communication equipment. BlueGO's electronic systems team with the Intelligent Transportation System (ITS) is being implemented in the Basin.

#### **U.6.B Safety and Safety Management Systems (SMS)**

Safety is paramount and inherent in the provision of services both at the organizational level as well as to the ultimate customer –the transit passenger. The FTA's authority in transit safety was codified at 49 U.S.C 5329. The FTA, through the authority delegated by the Secretary of the Department of Transportation, must create a comprehensive Public Transportation Safety Program. Most notably, Section 5329 provides the FTA with the following explicit authorities to administer the Safety Program and to take enforcement actions:

- ◆ 49 U.S.C. 5329(f), provides the FTA with the authority to inspect and audit a public transportation system; make reports and issue directives with respect to the safety of a

public transportation system or the public transportation industry generally; issue subpoenas and take depositions; require the production of documents; prescribe recordkeeping and reporting requirements; investigate public transportation accidents and incidents; enter into and inspect the equipment, rolling stock, operations and relevant records of a public transportation system; and issue regulations.

- ◆ 49 U.S.C. 5329(g) authorizes the FTA to take enforcement actions against a recipient of Federal financial assistance under 49 U.S.C. chapter 53 that is noncompliant with Federal transit safety law, through issuing directives, requiring more frequent oversight, imposing more frequent 166 reporting requirements, requiring that chapter 53 funds be spent to correct safety deficiencies before those funds are spent on other projects, and withholding funds from a recipient.
- ◆ 49 U.S.C. 5329(h) authorizes the FTA to impose restrictions and prohibitions on a recipient's operations, where the FTA determines that an unsafe practice or condition creates a substantial risk of death or personal injury. The final rule, dated August 11, 2016, added a new Part 670, "Public Transportation Safety Program," to Title 49 of the CFR.

The NDOT will ensure compliance with all safety-related requirements including the implementation of the FTA's Safety Management Systems (SMS), a comprehensive, collaborative approach that brings management and labor together to build on the transit industry's existing safety foundation to control risk better, detect and correct safety problems earlier, share and analyze safety data more effectively, and measure safety performance more carefully. This will include any provisions of the National Public Transportation Safety Plan (NITS) which has been issued and any future requirements that are still to be issued by the FTA. The NDOT will ensure that its subrecipients also comply with any applicable provisions.

Subrecipients are required to operate their service in a safe manner and prevent the development of conditions that "create a serious hazard of death or injury." The NDOT's Monitoring Program includes safety compliance. If safety violations are found during the monitoring visit, the subrecipient is given the opportunity to correct the situation. If a subrecipient fails to correct a safety violation, financial assistance can be withheld.

### **U.7 Public Transportation Safety Certification Training Program for Federal and State Personnel**

The FTA has developed an interim public transportation safety certification training program that applies to transit grantees regardless of mode. After the interim provisions are in place, the FTA will prepare a Public Transportation Certification Training Program, which will be established by regulation. The program is for Federal and State employees or other designated personnel who conduct safety audits and examinations and employees of public transportation agencies responsible for direct safety oversight. Sections 5307 and 5311 recipients may use up to 0.5% of formula funds to pay for up to 80% of the cost of participation by an employee who has direct safety oversight responsibility of the public transportation system.

## **U.8 The FTA's Safety Authority**

The FTA has the authority to inspect and audit all public transportation systems; to make reports and issue directives with respect to the safety of public transportation systems; to issue subpoenas and take depositions; to require the production of documents; to prescribe recordkeeping and reporting requirements; to investigate public 173 transportation accidents and incidents; to enter and inspect equipment, rolling stock, operations and relevant records; and to issue regulations to carry out Section 5329. The FTA has enforcement authority, and is permitted to issue directives, require more frequent oversight, impose more frequent reporting requirements, and require that formula grant funds be spent to correct safety deficiencies before funds are spent on other projects.

## **U.9 Protection of the Environment/Environmental Justice**

The NDOT agrees to, and assures that its subrecipients will, comply with all applicable environmental and resource use laws, regulations, and requirements, and follow applicable guidance, now in effect or that may become effective in the future, including State and local laws, ordinances, regulations, and requirements and follow applicable guidance.

The FTA's environmental impact regulation requires different levels of analysis and documentation for the various types of projects funded through its programs. The great majority of projects and activities funded through the Sections 5310, 5311, and 5339 programs do not, normally, involve significant environmental impacts. Such projects are termed "categorical exclusions" in the FTA's procedures because they are types of projects that have been categorically excluded from the requirement to prepare an environmental document. The FTA's regulation classifies categorically excluded actions and projects into two groups:

- ◆ Those having very limited or no environmental effects at all such as planning and technical studies, preliminary design work, program administration, operating assistance and transit vehicle purchases; and
- ◆ Those involving more construction and greater potential for off-site impacts, for example new construction or expansion of transit terminals, storage and maintenance garages, office facilities and parking facilities. These can be built and operated without causing significant impacts if they are sited in areas with compatible land use where the primary access routes are adequate to handle additional transit vehicle traffic. The vehicles, radio and computer equipment and other related equipment items routinely purchased under the Section 5310 program are considered categorical exclusions from the FTA's requirements to prepare environmental documentation. Both Sections 5310 and 5311 subrecipients shall submit declarations of environmental assessments for approval by the FTA through their respective application process, as necessary. An Environmental Justice analysis may be a part of this process as described in the FTA Circular 4703.1 ([https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA\\_EJ\\_Circular\\_7.14-12\\_FINAL.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA_EJ_Circular_7.14-12_FINAL.pdf)).

### **U.9.A Native American Sacred Sites**

The NDOT agrees to, and assures that its Third-Party Participants will facilitate compliance with Federal efforts to promote the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, and facilitate compliance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996, and Executive Order No. 13007, "Indian Sacred Sites," May 24, 1996, 42 U.S.C. § 3161.

### **U.9.B Environmental Justice**

The NDOT and its subrecipients agree to, and assures that its Third-Party Participants will, promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, (2) U.S. DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," Fed. Reg. 18377, April 15, 1997, and (3) The most recent edition of the FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, requirements, and guidance.

### **U.9.C Additional Environmental Requirements**

The NDOT agrees to comply or facilitate compliance and assures that its subrecipients will comply or facilitate compliance with all applicable Federal laws, regulations, and requirements, and will follow applicable guidance, including, but not limited to, the Clean Air Act, Clean Water Act, Wild and Scenic Rivers Act of 1968, Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, Magnuson Stevens Fishery Conservation and Management Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order No. 11990 relating to "Protection of Wetlands," and Executive Order Nos. 11988 and 13690 relating to "Floodplain Management."

The NDOT agrees to, and assures that its subrecipients, if any, will comply with the mandatory energy standards and policies of its State energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with Federal assistance required under the FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. part 622, subpart C.

### **U.10 Clean Air Act**

The Clean Air Act Amendments of 1990 establish many new substantive requirements to bring air quality regions, which currently violate the National Ambient Air Quality Standards, into attainment by prescribed dates. The principal requirement for which both Section 5310 and Section 5311 subrecipients must be aware of is the transportation/air quality conformity review process. In general, transportation plans, programs, and projects must "conform" with approved State (air quality) Implementation Plans before FHWA or the FTA can fund them. Most of the projects typically funded under Section 5311 have been exempted by regulation from the conformity review process, e.g., operating assistance, purchase, and rehabilitation of transit vehicles, operating equipment and construction of most storage and maintenance facilities.

However, this could become an issue for certain large facilities, e.g. transit terminals and park-and-ride facilities. A complete list of exempted 165 highway and transit projects is found in 40 CFR 93.126. Therefore, Section 5311 projects should consult with the FTA, when in question, as early as possible in the development of their programs to establish the need for further analysis to support the FTA's conformity determination.

Other Clean Air Act requirements may apply to Section 5310 and 5311 subrecipients, for example, phase-in of more stringent bus emissions standards. The FTA Regional Office can supply up-to-date information on various provisions of the Clean Air Act related to mobile sources. Subrecipient transit agencies will be encouraged to procure alternative-fueled vehicles and to make renovations and construction projects environmentally friendly.

### **U.11 Nevada CDL Requirements**

In Nevada, a Commercial Driver License (CDL) is required to operate a commercial motor vehicle. A commercial motor vehicle is a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- ◆ Has a gross combination weight rating of 26,001 pounds or more inclusive of a towed unit(s) with a gross vehicle weight rating of more than 10,000 pounds; or
- ◆ Has a gross vehicle weight rating of 26,001 pounds or more; or
- ◆ Is designed to transport 16 or more passengers, including the driver; or
- ◆ Is of *any* size and is used in the transportation of hazardous materials that require placarding.

### **CDL Age Requirements**

- ◆ You must be at least 21 years of age to be issued a CDL to operate a commercial motor vehicle in interstate commerce and to receive endorsements for passengers (<http://www.dmvnv.com/cdl.htm>).
- ◆ You must be at least 25 to receive an endorsement for vehicle combinations over 70 feet in length.
- ◆ CDLs issued to applicants age 18 to 20 will contain Restriction R (no passengers or hazmat) and Restriction 2 (intrastate commerce only).

### **U.12 Debarment and Suspension**

The purpose of the DOT Nonprocurement Suspension and Debarment regulations (2 CFR part 1200) is to ensure that Federal assistance funds are not provided to anyone who has been debarred, suspended, determined ineligible, or voluntarily excluded from participation in Federally assisted-transactions. The U.S. General Services Administration's (GSA) System for Award Management (SAM) provides a single comprehensive list of individuals and firms excluded by Federal government agencies from receiving Federal contracts or Federally-approved subcontracts and from certain types of Federal financial and nonfinancial assistance and benefits. GSA maintains a website (<https://www.sam.gov>), which is updated in real time as changes to the data occur.



- a. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR part 1200, incorporating OMB’s debarment and suspension guidelines, 2 CFR part 180, requires disclosure of the status of persons and entities participating in:
  - (1) Third-party contracts or subagreements of \$25,000 or more at any tier;
  - (2) Third-party contracts of any amount for Federally-required audit services (such as those required under the Single Audit Act Amendments); and
  - (3) Third-party contracts or subagreements requiring official DOT approval.
- b. Both participants in third-party contracts of any tier and subagreements of any tier are expected to ensure the status of persons participating therein.
- c. The awarding party must verify that the person is not excluded or disqualified by:
  - (1) Checking the SAM registry of excluded parties maintained by the GSA and available at (<https://www.sam.gov>).
  - (2) Collecting a certification from the prospective awardee; or
  - (3) Adding a clause or condition to the third-party contract or subagreement with that awardee.
- d. Participating in lower tier transactions must extend these requirements to their awardees. The prospective awardee in turn must notify the recipient or third party contractor (person at the next higher tier) if it knows whether it or any of its principals are presently excluded or disqualified under these regulations.

In addition, the NDOT (Grantee) and awardees (subrecipients) are prohibited from contracting for goods and services from individuals or organizations that have been suspended or debarred from receiving Federally-assisted contracts. The NDOT and its subrecipients will include debarment/suspension provisions in contracts exceeding \$25,000. Subrecipients must provide immediate written notice to the NDOT for reporting to the FTA if they learn that their certification or the certification of any contractor is no longer valid. The NDOT also recognizes that they must also report these conditions to the FTA should they arise. Grantees are required to review the SAM website for the list of debarred and suspended organizations or individuals.

The NDOT and its subrecipients are required to ensure to the best of its knowledge and belief that none of its principals, affiliates, third-party contractors, and subcontractors is suspended, debarred, ineligible, or voluntarily excluded from participation in Federally-assisted transactions or procurements. The FTA requires grantees to review SAM before entering into any third-party contract expected to equal or exceed \$25,000.

***The NDOT recommends as a best practice that the NDOT subrecipients print the screen with the results of the search to be included in the grant or procurement file or to have a checklist noting that SAM was reviewed.***

In 2 CFR Part 180 a principal is defined as an officer, director, owner, partner, principal investigator, or other person with management or supervisory responsibilities related to a covered transaction. Grantees should have a similar review process for its principals as it does for its contractors and subrecipients regarding suspension and debarment.

If a grantee becomes aware, after the award of a contract, that an excluded party is participating in a covered transaction, it must promptly inform the NDOT and the FTA in writing of this information. The grantee may continue any covered transaction in existence at the time a party was debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded. The grantee is not required to continue the transaction and may consider termination. However, the grantee may not renew or extend the covered transaction (other than through a no-cost time extension) with the excluded party.

The following clause language is suggested, not mandatory. It incorporates the optional method of verifying that contractors are not excluded or disqualified by certification.

### ***Suspension and Debarment***

*This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.*

*The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.*

*By signing and submitting its bid or proposal, the bidder or proposer certifies as follows: 'The certification in this clause is a material representation of fact relied upon by **{insert agency name}**. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to **{insert agency name}**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.*

### **U.13 Davis-Bacon Act**

For the FTA programs, 49 U.S.C. Section 5333(a) applies Davis-Bacon Act prevailing wage requirements. This provision applies only to construction projects. In the event that a project involves construction, Section 5333(a) requires the Secretary to ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of loans or grants under 49 U.S.C. Chapter 53 be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary may not

approve any such loan or grant without first obtaining assurance that required labor standards would be maintained upon the construction work. This assurance is obtained when recipients accept grant funds and sign the FTA's master agreement.

#### **U.14 Restrictions on Lobbying**

Federal financial assistance may not be used to influence any member of Congress or an officer or employee of any agency regarding the making of any Federal contract, grant, or cooperative agreement. The NDOT, subrecipients, and third-party contractors at any tier awarded the FTA assistance exceeding \$100,000 must sign a certification so stating and must disclose the expenditure of non-Federal funds for such purposes (49 CFR part 20).

Other Federal laws also govern lobbying activities. For example, Federal funds may not be used for lobbying congressional representatives or senators indirectly, such as by contributing to a lobbying organization or funding a grass-roots campaign to influence legislation (31 U.S.C. 1352). These laws do not prohibit general advocacy for transit. Providing information to legislators about the services a recipient provides in the community is not prohibited, nor is using non-Federal funds for lobbying, so long as the required disclosures are made.

#### **U.15 Trafficking in Persons**

The NDOT agrees to comply and assures the compliance of each subrecipient, with Federal requirements and guidance, including: (a) Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended, 22 U.S.C. § 7104(g), and (b) The terms of this section 4.g, which have been derived from U.S. OMB regulatory guidance, "Award Term for Trafficking in Persons," 2 C.F.R. part 175, per U.S. OMB's direction.

#### **U.16 Federal "\$1 Coin" Requirements**

The NDOT agrees that it will comply with section 104 of the Presidential \$1 Coin Act of 2005, 31 U.S.C. § 5112(p), its equipment and facilities will be fully capable of accepting and dispensing \$1 coins when coins or currency are required to use that equipment or those facilities, and it will display signs and notices of the \$1-coin capability of its equipment and facilities on its premises, including vending machines, where coins or currency are used.

#### **U.17 Motor Carrier Safety and U.S. FMCSA Requirements**

The NDOT agrees to comply and assures that its Third-Party Participants (subrecipients) will comply with the economic and insurance registration requirements of the:

- (1) U.S. Federal Motor Carrier Safety Administration (FMCSA) regulations, "Minimum Levels of Financial Responsibility for Motor Carriers," 49 C.F.R. part 387, if it is engaged in operations requiring compliance with 49 C.F.R. part 387, it is engaged in interstate commerce, and it is not within a defined commercial zone, and
- (2) The provisions of 49 U.S.C. § 31138(e)(4), which supersede inconsistent provisions of 49 C.F.R. part 387, and reduce the amount of insurance the Recipient must obtain to the highest amount required by any State in which the public transportation provider operates, if it operates within a public transportation service area located in more than one State, and receives Federal assistance under 49 U.S.C. §§ 5307, 5310, and 5311.

The NDOT also agrees to comply and assures that its Third-Party Participants (subrecipients) will comply with:

- 1 The safety requirements of U.S. FMCSA regulations, “Federal Motor Carrier Safety Regulations,” 49 C.F.R. parts 390 – 397, to the extent applicable; and
- 2 The driver’s license requirements of U.S. FMCSA regulations, “Commercial Driver’s License Standards, Requirements, and Penalties,” 49 C.F.R. part 383, and “State Compliance with Commercial Driver’s License,” 49 C.F.R. part 384, to the extent applicable, with the substance abuse requirements and guidance of U.S. FMCSA’s regulations, “Drug and Alcohol Use and Testing Requirements,” 49 C.F.R. part 382, and implementing Federal guidance, to the extent applicable.

### **U.18 Safe Operation of Motor Vehicles**

1. Seat Belt Use. The NDOT agrees to implement Executive Order No. 13043, “Increasing Seat Belt Use in the United States,” April 16, 1997, 23 U.S.C. § 402 note, by:
  - a. Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles, and
  - b. Including a “Seat Belt Use” provision in each third-party agreement related to the Award.
2. Distracted Driving, Including Text Messaging While Driving. the NDOT agrees to comply with:
  - a. Executive Order No. 13513, “Federal Leadership on Reducing Text Messaging While Driving,” October 1, 2009, 23 U.S.C. § 402 note;
  - b. U.S. DOT Order 3902.10, “Text Messaging While Driving,” December 30, 2009;
  - c. The following U.S. DOT Special Provision pertaining to Distracted Driving:
    - i. Safety. The NDOT agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Recipient owns, leases, or rents, or the FTA Master Agreement MA (23), 10-1-2016 privately-owned vehicle when on official business regarding the Award, or when performing any work for or on behalf of the Award;
    - ii. Recipient Size. The NDOT agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving; and
    - iii. Extension of Provision. The NDOT will use the preceding Special Provision of section 34.b(3)(a) – (b) of this Master Agreement in its third-party agreements, and encourage its Third-Party Participants to comply with this Special Provision, and include it in each third-party subagreement at each tier supported with Federal assistance.

## **U.19 Protection of Sensitive Security and Other Sensitive Information**

The NDOT agrees to comply with the following requirements for the protection of sensitive security information:

- ◆ The Homeland Security Act, as amended, specifically 49 U.S.C. § 40119(b), and U.S. DOT regulations, “Protection of Sensitive Security Information,” 49 C.F.R. part 15;
- ◆ The Aviation and Transportation Security Act, as amended, 49 U.S.C. § 114(r), and U.S. Department of Homeland Security, Transportation Security Administration regulations, “Protection of Sensitive Security Information,” 49 C.F.R. part 1520, and
- ◆ U.S. DOT Common Rules, which require the NDOT to implement, and to require its Subrecipients, if any, to implement, reasonable measures to safeguard protected personally identifiable information as well as any information that the FTA or pass-through entity designates as sensitive.

## **U.20 Discovery and Invention/Patent Rights**

Any research, development, experimental or demonstration contract that the NDOT undertakes will include a provision stipulating the FTA’s requirements and regulations regarding all patent rights, copyrights and rights to data related to any discovery or invention made by the contractor.

## **V. TRANSIT ASSET MANAGEMENT (TAM)**

The NDOT must develop a Transit Asset Management (TAM) Plan that complies with Federal transit laws, specifically 49 U.S.C. § 5326 and 5337(a)(4), the FTA regulations, “Transit Asset Management; National Transit Database,” 49 C.F.R. parts 625 and 630, and other applicable Federal laws, regulations, and requirements. Subrecipients must also comply with “Transit Asset Management; National Transit Database,” 49 C.F.R. parts 625 and 630, and follow applicable Federal guidance.

TAM requires public transportation providers to develop and implement transit asset management (TAM) plans. TAM plans must include an asset inventory, condition assessments of inventoried assets, and a prioritized list of investments to improve the State of Good Repair (SGR) of their capital assets so that these assets can continue to be used to provide efficient, reliable, and safe service. The TAM final rule also establishes state of good repair standards and four (4) SGR performance measures. Transit providers are required to set performance targets for their capital assets based on the SGR measures and report their targets, as well as information related to the condition of their capital assets, to the National Transit Database (NTD). More information about TAM and the National Transit Database is available at (<https://www.transit.dot.gov/TAM>) and (<https://www.transit.dot.gov/ntd>), respectively.

## **W. STATE MANAGEMENT PLAN REVISIONS**

In accordance with the FTA guidance, the NDOT will, for revisions that are substantive, but not pervasive, submit changes and additions in the form of page changes to the FTA for their approval and incorporation into the SMP on file at the FTA Regional Office. Additionally, the NDOT in accordance with the FTA guidance will submit minor changes and technical corrections to update the approved plan, without the need to seek the FTA's approval.

When the NDOT proposes significant changes in the SMP, it shall submit the entire revised plan to the FTA Regional Office for approval. Additionally, the NDOT shall provide stakeholders which may include but are not limited to minority applicants, subrecipients, third-party contractors, potential subrecipients of assistance, potential service providers, other State agencies and representatives of other funding sources and any relevant State associations and professional organization to review and provide comments on the plan following the NDOT public comment process. Once all public comments have been addressed, the NDOT will submit the revised SMP to the FTA Regional Office for approval.