

**North Carolina Department of Transportation  
Integrated Mobility Division**

**State Management Plan (SMP)  
for  
Federal Transit Administration (FTA) Programs**



Integrated Mobility Division  
N.C. DEPARTMENT OF TRANSPORTATION

**March 2022**



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**Overview**

The State Management Plan (SMP) is a document that describes the state's policies and procedures for administering federal programs under the Federal Transit Administration (FTA) that are awarded to the Governor. These state-managed FTA programs include:

- 49 U.S.C. § 5311, Formula Grants for Rural Areas
- 49 U.S.C. § 5310, Enhanced Mobility of Seniors and Individuals with Disabilities Program
- 49 U.S.C. § 5339, Bus and Bus Facilities Formula Program

The North Carolina Department of Transportation, Integrated Mobility Division is required to have an approved SMP on file with the FTA Region IV office and to update it regularly to incorporate any changes in program management or new requirements. NCDOT must provide an opportunity for review by stakeholders when it develops a new plan or significantly revises an existing plan. FTA provides the designated agency to include all federal programs in a single document or separate documents; as many entities in North Carolina receive multiple funding awards, IMD has elected to develop a single SMP.

**Purpose**

The SMP is intended to facilitate both state management and FTA oversight by documenting NCDOT's procedures and policies for administering federal grant programs. FTA requires the SMP address, at a minimum, the following elements:

- Program Goals and Objectives
- Roles and Responsibilities
- Coordination
- Eligible Subrecipients
- Eligible Services and Services Areas
- Eligible Assistance Categories
- Local Share and Local Funding Requirements
- Project Selection Criteria and Method of Distributing Funds
- Intercity Bus Transportation

- Annual Program of Projects Development and Approval Process
- Funds Transfers
- State Administration and Technical Assistance
- State RTAP
- Private Sector Participation
- Civil Rights
- Maintenance
- Charter Rule
- Section 504 and ADA Reporting
- NTD Reporting
- State Program Management
- Other Provisions

The SMP’s primary purposes are to serve as the basis for FTA state-level management reviews of the program and to provide public information on the NCDOT’s administrative procedures of FTA programs.

**Related Documents**      The Integrated Mobility Division’s *Business Guide* provides detailed instruction on procedural elements of the Division’s administration of both federal and state programs. This important reference document may be accessed via this [link](#).

**Authority**                      FTA Circular 9040.1G  
    FTA Circular 9070.1G  
    FTA Circular 5100.1

## 1.1

## Designated Administrative Entity

### Applicability

All programs

### Designated Agency

The General Assembly created the state's Integrated Mobility Division in 1974 to foster the development of intercity, urban, and community public transportation for all those who live and work in North Carolina. Consistent with federal law, the Governor designated the Integrated Mobility Division as the state agency that has principal authority and responsibility for the administration of programs funded by the Federal Transit Administration (FTA).

### Organization

The Division also supports the transportation systems that have been created in North Carolina's 100 counties and fosters collaborative and regional service delivery when appropriate. The Division is made up of several sections that provide support for North Carolina's transportation system. These sections include:

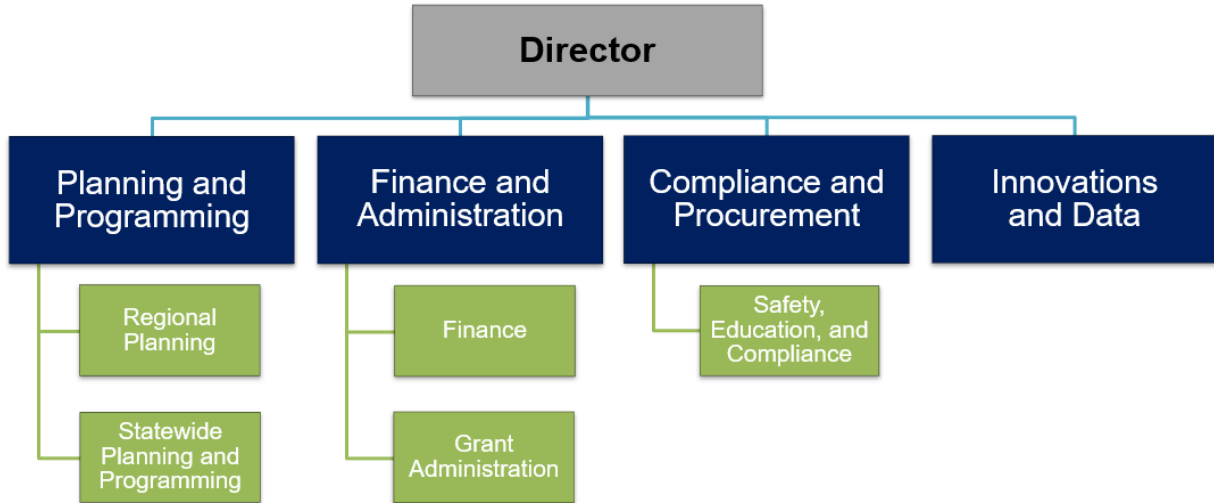
- Planning and Programming
- Finance and Administration
- Compliance and Procurement
- Innovations and Data

The basic organizational structure of the Division is reflected in Exhibit 1.1.

### Authority

N.C.G.S. § 136-44.20(a)

**Exhibit 1.1**    **IMD Organizational Chart**





<b>Applicability</b>	All programs.
<b>IMD Mission</b>	To provide leadership for safe, affordable, and innovative multimodal transportation throughout North Carolina.
<b>IMD Goals</b>	<p>Increase Access – eliminate transportation barriers and ensure all North Carolinians have equal access to opportunities and services.</p> <p>Enhance Quality of Life – offer a convenient network of multimodal choices to enhance the quality of life for North Carolinians.</p> <p>Ensure Safety – ensure all road users can travel safely by building complete streets and proactively correcting areas susceptible to crashes involving vulnerable road users</p>
<b>IMD Strategies</b>	<ul style="list-style-type: none"> <li>• Optimize financial and administrative controls</li> <li>• Improve multimodal transportation planning</li> <li>• Implement data-driven policies and decisions</li> <li>• Lead on innovative concepts and activities</li> <li>• Integrate proven technologies</li> <li>• Communicate best practices broadly</li> <li>• Provide risk-based oversight of funding subrecipients</li> <li>• Respond to pressing and emerging needs</li> <li>• Advance Complete Streets concepts</li> <li>• Streamline and create effective and consistent external and internal processes</li> <li>• Establish coalitions and strengthen relationships that can help advance IMD’s mission</li> </ul>
<b>NCDOT Long Range Transportation Plan</b>	IMD’s goals align and expand on NCDOT’s overall objectives and strategies as described in NCDOT’s long-range transportation plan ( <a href="#">NC Moves 2050</a> ),

including the following:

- NCDOT Core Objective: Provide Transportation Access for All
  - Strategy: Improve quality of life and multimodal access to regional jobs and services
  - Strategy: Connect Communities to Statewide Opportunities
  
- Key Actions to Achieve Objective
  - Consider accessibility and affordability when expanding multimodal options and connections.
  - Improve multimodal access and service to regional activity centers and destinations.
  - Implement multimodal solutions that improve connections to major transportation terminals, destinations, and distribution centers.
  - Conduct a statewide vulnerability assessment of transportation users with mobility challenges.
  - Accelerate demand response and flexible multimodal strategies to meet the needs of an aging population and residents with disabilities.

**Applicability**

All programs.

**Subrecipient Responsibilities**

NCDOT requires that each entity doing business with the Department have an authorized official register with the agency and maintain up-to-date contact information to correctly consult, report, and receive reimbursement from the IMD.

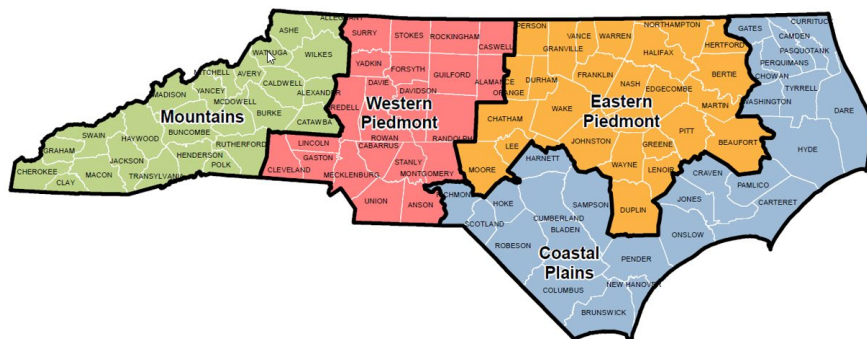
An Authorized Official must be designated by way of Resolution by the Governing Board as the official with the authority to submit funding applications and enter into contracts and execute all Agreements with DOT. This form must be submitted annually with program funding applications.

The Delegation of Authority form will be used by IMD to communicate findings in oversight and monitoring reviews, late reporting, and financial concerns when necessary.

**IMD Responsibilities**

IMD has divided the state into four regions (Coastal Plains, Eastern Piedmont, Western Piedmont, and Mountains) for purposes of providing staff support and oversight to its subrecipients.

IMD Regions



Within each region, dedicated staff in four functional areas will be assigned:

- Finance
- Grants Administration
- Planning
- Safety, Education and Compliance

IMD uses an email list to communicate important news to subrecipients. Agency staff must inform IMD staff when a lead transit employee's contact information needs to be updated (i.e., new hires or departures).

Other information and resources to assist applicants and subrecipients are available on the IMD [website](#).

**Applicability**

Varies by program (see below)

**Program Overview:  
Section 5311**

The Formula Grants for Rural Areas Program, codified at 49 U.S.C. 5311 (Section 5311), is authorized under the provisions set forth in the Infrastructure Investment and Jobs (IIJA) Act, Pub. L. No. 117-58, commonly referred to as the Bipartisan Infrastructure Law (BIL).

Under this program, the Secretary may make grants to assist states and local governmental authorities in financing capital, operating, planning, and job access and reverse commute projects, associated with providing public transportation in rural areas. The Catalogue of Federal Domestic Assistance (CFDA) number for the Formula Grants for Rural Areas Program is 20.509.

The state may use up to 10 percent of its Section 5311 program funds to administer the program and provide technical assistance to subrecipients. Technical assistance includes project planning, program, and management development, public transportation coordination activities, and research the state considers appropriate to promote effective delivery of public transportation in rural areas. Planning activities are an eligible expense under Section 5311 and shall be in addition to funding awarded to a state under Section 5305 for planning activities that are directed specifically at the needs of rural areas in the state. There is no limitation on the use of Section 5311 funds for operating assistance; however, the state must use at least 15 percent of its annual apportionment to support intercity bus service, unless the governor certifies, after consultation with affected intercity bus providers, that the intercity bus needs of the state are adequately being met.

**Program Overview:  
Section 5310**

Title 49 U.S.C. 5310 authorizes the formula assistance program for the Enhanced Mobility of Seniors and Individuals with Disabilities Program and provides formula funding to states and designated recipients (recipients) to improve mobility for seniors and individuals with disabilities.

This program provides grant funds for capital and operating expenses to recipients for:

- Public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;
- Public transportation projects that exceed the requirements of the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.);
- Public transportation projects that improve access to fixed-route service and decrease reliance on complementary paratransit; and
- Alternatives to public transportation projects that assist seniors and individuals with disabilities with transportation.

This program no longer provides a single apportionment to each state; it now provides apportionments specifically for large urbanized, small urbanized, and rural areas, and will require new designations of designated recipients in large UZAs. Consistent with the type of projects eligible under the former New Freedom program, the Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law 112-141, expanded the eligible activities to include operating expenses (The FAST Act continued to authorize these expenses). FTA refers to this formula program as “the Section 5310 program.” Funds authorized by 49 U.S.C. 5310 are subject to annual appropriations.

**Program Overview:  
Section 5307**

The Urbanized Area Formula Funding program (49 U.S.C. 5307) makes federal resources available to urbanized areas and governors for transit capital and operating assistance in urbanized areas and transportation-related planning. An urbanized area is an incorporated area with a population of 50,000 or more that is designated as such by the U.S. Department of Commerce, Bureau of the Census.

Section 5307 funds are apportioned directly to urbanized areas over 200,000 in population. Funds for small urbanized areas, between 50,000 and 200,000 in population, are apportioned to the governors of each state.

Prior to FY 2023, IMD elected to directly administer Section 5307 funds under the governor’s apportionment. During FY 2022, IMD began an

initiative to transfer administrative responsibility to the FTA-Region IV office. Under these arrangements, entities that previously were subrecipients of IMD would become direct recipients of funds from the FTA.

While grant administration responsibilities will be transferred to FTA, federal transit law provides that Section 5307 funds will continue to be apportioned to the Governor. This will require IMD to perform the critical allocation of funds to the respective small urbanized areas in consultation with the affected metropolitan planning organizations and transit agencies. IMD will be obligated to annually communicate the allocation of funds to FTA in a “split” letter. In addition, IMD, in coordination with FTA, will work to ensure that any funds in the Governor’s Apportionment subject to lapse will be identified and re-obligated to avoid the loss of federal transit funds to the state.

**Program Overview:  
Section 5339**

The Bus and Bus Facilities Program is authorized under the provisions in the FAST Act, as codified at 49 U.S.C. 5339 (“Section 5339”). The secretary may make grants under this section to assist eligible recipients in financing capital projects to replace, rehabilitate, and purchase buses and related equipment, and to construct bus-related facilities.

Similar to IMD actions in the Section 5307 program, program administration responsibilities will revert to FTA effective FY 2023 for small urbanized areas. Section 5339 allocated to the Governor for use in small urbanized areas will be allocated annually by IMD and communicated to FTA in the split letter.

The Catalog of Federal Domestic Assistance (CFDA) number used in the Bus and Bus Facilities Grants Program is 20.526.

**Authority**

FTA Circular 9040.1G  
FTA Circular 9070.1G  
FTA Circular 5100.1

**Applicability**

Varies by program; current guidance for Section 5311 and Section 5339 do not address program measures.

**Goals: Section 5311**

Pursuant to 49 U.S.C. 5311, FTA apportsions or awards funds to states, Indian tribes, or other eligible recipients located in rural areas for planning, public transportation capital projects, operating costs, job access reverse commute projects, and the acquisition of public transportation service. The Section 5311 program supports both the maintenance of existing public transportation services and the expansion of those services through the following program goals:

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

**Goals: Section 5310**

The goal of the Section 5310 program is to improve mobility for seniors and individuals with disabilities throughout the country by removing barriers to transportation services and expanding the transportation mobility options available. Toward this goal, FTA provides financial assistance for transportation services planned, designed, and carried out to meet the special transportation needs of seniors and individuals with disabilities in all



areas—large urbanized, small urbanized, and rural areas.

Under the Government Performance Results Act (GPRA), FTA is required by law to “establish performance goals to define the level of performance” and to also “establish performance indicators to be used in measuring relevant outputs, service levels, and outcomes” for each of its programs.

The following indicators are targeted to capture overarching program information as part of the annual report that each state and designated recipient submits to FTA. NCDOT will submit both quantitative and qualitative information as available on each of the following measures.

FTA has adopted a different set of measures depending on the type of project.

- Traditional Section 5310 Projects
  - **Gaps in Service Filled.** Provision of transportation options that would not otherwise be available for seniors and individuals with disabilities measured in numbers of seniors and people with disabilities afforded mobility they would not have without program support as a result of traditional Section 5310 projects implemented in the current reporting year.
  - **Ridership.** Actual or estimated number of rides (as measured by one-way trips) provided annually for individuals with disabilities and seniors on Section 5310–supported vehicles and services as a result of traditional Section 5310 projects implemented in the current reporting year.
- Other Section 5310 Projects
  - **Increases or enhancements related to geographic coverage, service quality, and/or service times** that impact the availability of transportation services for seniors and individuals with disabilities as a result of other Section 5310 projects implemented in the current reporting year.
  - **Additions or changes to physical infrastructure** (e.g., transportation facilities, sidewalks, etc.), technology, and vehicles that impact the availability of transportation services for seniors and individuals with disabilities as a

result of other Section 5310 projects implemented in the current reporting year.

- **Actual or estimated number of rides** (as measured by one-way trips) provided for seniors and individuals with disabilities as a result of other Section 5310 projects implemented in the current reporting year.

**Goals: Section 5339**

Pursuant to 49 U.S.C. 5339, Federal Transit Administration (FTA) awards grants under this section to the designated recipients in the large urbanized areas (UZAs) and states to finance capital bus and bus-related projects that will support the continuation and expansion of public transportation services in the United States.

**Authority**

FTA Circular 9040.1G  
FTA Circular 9070.1G  
FTA Circular 5100.1

**Applicability**

Varies by program

**IMD Responsibilities –  
Section 5311**

NCDOT responsibilities include:

- Documenting the state’s procedures for administering the Section 5311 program in a state management plan (SMP);
- Notifying eligible local entities of the availability of the program;
- Planning for future transportation needs, and ensuring integration and coordination among diverse transportation modes and providers;
- Soliciting applications;
- Developing project selection criteria;
- Reviewing and selecting projects for approval;
- Forwarding an annual program of projects and grant application to FTA;
- Certifying eligibility of applicants and project activities;
- Ensuring compliance with federal requirements by all subrecipients;
- Monitoring local project activity;
- Overseeing project audit and closeout; and
- Filing an NTD report each year for itself and each subrecipient.

**IMD Responsibilities –  
Section 5310**

NCDOT is responsible for the selection of projects and will serve as the applicant for funds to FTA. NCDOT responsibilities include:

- Documenting the state’s procedures for administering the Section 5310 program in a state management plan (SMP);
- Planning for future transportation needs, and ensuring integration and coordination among diverse transportation modes and providers;
- Developing project selection criteria consistent with the coordinated planning process;
- Notifying eligible local entities of funding availability;
- Soliciting applications from potential subrecipients;

- Determining applicant and project eligibility;
- Certifying that allocations of funds to subrecipients are made on a fair and equitable basis;
- Submitting an annual program of projects (POP) and grant application to FTA;
- Ensuring subrecipients comply with federal requirements;
- Certifying that all projects are included in a locally developed, coordinated public transit-human service transportation plan developed and approved through a process that included participation by seniors; individuals with disabilities; representatives of public, private, and nonprofit transportation and human service providers; and other members of the public;
- Certifying that to the maximum extent feasible, services funded under Section 5310 are coordinated with transportation services assisted by other federal departments and agencies;
- Ensuring 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 section 5 of Chapter III of this circular; and
- Overseeing project audit and closeout.

**IMD Responsibilities – NCDOT responsibilities for urbanized areas include:  
Section 5339**

- Allocating Section 5339 allocated to North Carolina in the Governor's Apportionment to the small urbanized areas based apportionment formulae and on local needs;
- Documenting the allocation decision in a split letter submitted annually to FTA; and
- Monitoring lapsing funds and working cooperatively with impacted systems to re-allocate funds to avoid lapse.

NCDOT responsibilities for rural areas include:

- Identifying eligible projects in rural areas based on local needs;
- Developing a program of projects for applications approved for funding;
- Submitting a grant application to FTA for the Section 5339 Program of Projects (POP);
- Reporting on behalf of subrecipients contained in the POP; and

- Ensuring that subrecipients and projects comply with all applicable federal requirements.

**Subrecipient  
Responsibilities – All  
Programs**

The subrecipient is responsible for:

**Applications.** Applicants must use the NCDOT’s Enterprise Business Service (EBS) website to submit their application budget and required documents. New applicants must receive access authorization to EBS from IMD. A manual for EBS (EBS) is available from IMD.

EBS will close five (5) business days after the due date of each grant application.

An applicant’s governing board will be required to vote on a resolution that approves the planned project budget and submittal of an application. In addition, the board must designate an official in the organization to sign the application documents. This action must be documented in the signed minutes of the governing board’s meeting.

**Applicants Serving Urbanized Areas.** Any applicant serving or preparing to serve persons living in an urbanized area using federal or state funds must notify the Metropolitan Planning Organization (MPO) of their intent to apply for funding. The MPO in the area should be notified prior to applying for funding to give the MPO time to follow their internal procedures for including the project in their transportation improvement program (TIP) and submit to IMD for inclusion in the state transportation improvement program (STIP).

**Authorizing Resolutions:** The Authorizing Resolution specifies who can sign the application and agreements on behalf of the applicant.

**Unique Entity Identifier:** The federal government has used services from Dun and Bradstreet to both identify (using the DUNS® number) and validate/verify federal contractors since 1978. In 1998, entities were required to get a DUNS number by the Federal Acquisition Regulation (FAR). In 2008, this requirement expanded to federal financial assistance.

OMB had announced that it is migrating away from the current proprietary DUNS number toward a new unique entity identifier generated directly by SAM.gov. OMB has directed federal agencies to finalize their transition to using the SAM-generated unique entity identifier (unique entity ID or UEI) by

April 2022. GSA will be contracting with D&B to ensure full continuity of services—including DUNS number assignment, monitoring, and validation of entity uniqueness—during the extended transition period.

Until the new UEI system is functional, applicants for funds are still required to obtain a DUNS number prior to registering the entity on SAM.gov. After implementation, applicants will use the new UEI system. Any new applicant after implementation will be required to have an UEI number before the application for federal funds.

**Subrecipients with an Existing DUNS Number:** If the subrecipient’s organization is currently registered in SAM.gov, no action will be necessary. The subrecipient will automatically be assigned a new number; there is no need for action for registered entities.

**Pre-Award Audit:** First-time applicants for transit funding will be required to submit to a pre-award audit completed by NCDOT. This audit establishes if an applicant has the financial and technical capacity to manage and implement a transit project. An application may be disqualified based on the findings of the audit. IMD prefers that this audit be conducted prior to the application process.

**Technical and Financial Capacity:** An applicant must be technically and financially prepared to begin and complete a project during the period of performance dates defined in the application guidance. There are few exceptions when the applicant will be allowed to extend the project dates, change project activities or amend the project budget once it is selected for funding. All grant funding is on a cost-reimbursement basis. An applicant must have the local matching funds and cash reserves to begin the project.

**Authority**

FTA Circular 9040.1G  
FTA Circular 9070.1G

<b>Applicability</b>	All programs; there are special requirements for recipients of Section 5310 funding.
<b>Coordination Principles: Community Transportation</b>	<p>North Carolina has a coordinated service delivery model that supports coverage and capacity in all 100 counties. The transit system is responsible for coordinating human service and public transportation needs in their service area. NCDOT supports and encourages the creation of regional organizations as well as connectivity with and to other transit systems.</p> <p><b>Human Service Transportation Coordination:</b> North Carolina’s community transportation systems are expected to provide “the maximum feasible coordination of public transportation service with transportation assisted by other federal sources.” i.e., customers with different funding sources and agencies will ride together on the same fleet of vehicles.</p> <p><b>Rural/Urban Coordination:</b> As North Carolina becomes increasingly urbanized, historically rural transit service providers may become urbanized, thereby resulting in a transition from rural funding to urbanized program funding. NCDOT expects that urban and rural services will be coordinated to the maximum extent feasible.</p> <p><b>Operating Regionally:</b> Community transportation systems must begin planning and operating regionally to get passengers to other modes and transit services that allow them to connect with other communities beyond their service area/region.</p> <p><b>Out-of-County Coordination to Medical Centers/VA:</b> Many persons from the rural areas of North Carolina must go to the big medical centers and Veteran Administration hospitals in the urban areas to get advanced medical care. As rural transit systems from contiguous service areas provide transportation to these destinations, they must avoid duplicating services and bunching transit vehicles from several systems in the medical center parking lots. Out of county service should be operated efficiently and trips should be coordinated with other community transportation providers.</p>

**Annual Agreement (AA) or Memorandum of Understanding (MOU):** is required between the transit systems in their agency contractors. The coordination efforts will be effectively served through a similar agreement. This agreement would include rates, expectations, shared decisions, etc.

**Special Coordination  
Requirements for  
Section 5310  
Subrecipients**

Federal transit law, as amended by the FAST Act, requires that projects selected for funding under the Section 5310 program be “included in a locally developed, coordinated public transit-human services transportation plan” and that the plan be “developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers and other members of the public.”

A locally developed, coordinated public transit-human services transportation plan (“coordinated plan”) identifies the transportation needs of individuals with disabilities, seniors, and people with low incomes; provides strategies for meeting those local needs; and prioritizes transportation services and projects for funding and implementation. Local plans may be developed on a local, regional, or statewide level. The decision as to the boundaries of the local planning areas should be made in consultation with the state, designated recipient, and the MPO, where applicable. The agency leading the planning process is decided locally and does not have to be the state or designated recipient.

Projects selected for funding shall be included in a coordinated plan that minimally includes the following elements at a level consistent with available resources and the complexity of the local institutional environment:

- An assessment of available services that identifies current transportation providers (public, private, and nonprofit);
- An assessment of transportation needs for individuals with disabilities and seniors. This assessment can be based on the experiences and perceptions of the planning partners or on more sophisticated data collection efforts, and gaps in service;
- Strategies, activities, and/or projects to address the identified gaps between current services and needs, as well as opportunities to achieve efficiencies in service delivery; and
- Priorities for implementation based on resources (from multiple program sources), time, and feasibility for implementing specific



strategies and/or activities identified.

While this requirement is uniquely associated with the Section 5310 program, NCDOT requires that all existing public transportation agencies be active participants in the coordination planning process.

**Authority**

FTA Circular 9070.1G

**Applicability**

Varies by program

**Section 5311  
Eligibility**

Eligible recipients include states and Indian tribes that receive an FTA grant directly from the federal government. Eligible subrecipients include states and local governmental authorities, nonprofit organizations, and operators of public transportation or intercity bus service that receive 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 recipients, or as subrecipients.

Direct recipients of Section 5307 in urbanized areas may also be eligible recipients of Section 5311 funds. Because of the wide range of circumstances under which an entity may provide services in both urbanized and rural areas, NCDOT requires the subrecipient to develop a reasonable basis related to the service provided, for allocating operating costs between the two FTA funding sources. The cost allocation process must also be applied to “joint” capital projects. Similarly, a subrecipient that purchases vehicles under either the Section 5307 or 5311 program for use in any part of a combined urbanized and rural service area should ensure that it has capital replacement policies in place to ensure that it is using program funds according to federal eligibility requirements. When there is a question as to the reasonableness of the subrecipient’s cost allocation methodology, FTA looks to the NCDOT to determine the reasonableness of the allocation process.

NCDOT provides technical assistance to organizations that require an urban/rural cost allocation plan.

**Section 5310  
Eligibility**

Eligible subrecipients include:

- Private nonprofit organizations; or
- A state or local governmental authority that:

- Is approved by NCDOT to coordinate services for seniors and individuals with disabilities; or
- Certifies that there are no nonprofit organizations readily available in the area to provide the service.

Entities in rural and small urbanized areas will apply for funds with IMD.

**Section 5339  
Eligibility**

Eligible recipients under Section 5339 are designated recipients and states that allocate funds to fixed route bus operators or state or local government agencies that operate fixed route bus services. A designated recipient that receives a grant under this section may allocate amounts of the grant to subrecipients that are public agencies or private nonprofit organizations engaged in public transportation, including those providing services open to a segment of the general public, as defined by age, disability, or low income. Please note: Eligible projects as authorized in Section 5339(a)(1) and (2) are not limited to projects that support fixed route only.

Effective with Fiscal Year 2023, applicants from small urbanized areas will apply directly to FTA for project funding under Section 5339 consistent with the amounts provided in the annual split letter. Projects from rural areas will apply for funds directly from NCDOT.

**Authority**

FTA Circular 9040.1G  
FTA Circular 9070.1G  
FTA Circular 5100.1

**Applicability**

Varies by program

**Section 5311 Service Areas**

NCDOT will use Section 5311 funds for public transportation projects, including job access and reverse commute projects, and intercity bus transportation projects in nonurbanized areas, defined as an area encompassing a population of less than fifty thousand people that has not been designated in the most recent decennial census as an “urbanized area” by the secretary of Commerce.

Since the goal of Section 5311 is to enhance the overall mobility of people living in rural areas, Section 5311 projects may include transportation to or from rural areas. Provided one trip end is in the rural area (either the origin or destination), NCDOT will consider the trip as eligible for Section 5311 funding.

The service area may include destinations across a state line. Operators of interstate service are required to comply with the Federal Motor Carrier Safety Administration (FMCSA) regulations.

**Section 5310 Service Areas**

Federal transit law provides that Section 5310 funds are apportioned allocated based on urbanized area status. In urbanized areas over 200,000 in population, the recipient charged with administering the Section 5310 program must be officially designated through a process consistent with 49 U.S.C. 5302(4).

NCDOT has been designated by the governor of the state has the authority and responsibility for administering the Section 5310 program in urbanized areas under 200,000 in population and rural areas. NCDOT will apply directly to FTA for grant funds for itself and its subrecipients. NCDOT is the only eligible direct recipient for Section 5310 funds in rural areas and small UZAs.

A 5310 project applicant must prove they are coordinating and providing service within the rural or urbanized area associated with the application.

The boundaries for rural areas and urban areas will be determined by the U.S. Census Bureau. NCDOT will use this information to determine funding eligibility for federal programs that use service area as a determining factor. Connectivity between service providers may be necessary to meet the needs of North Carolina's citizens.

**Section 5339**

All transit projects for which federal funds are expected to be used and that are within metropolitan planning boundaries must be included in a Metropolitan Transportation Plan and transportation improvement plan (TIP) developed and approved by the metropolitan planning organization (MPO) and the chief executive officer of a state and in a statewide transportation improvement plan (STIP) that has been approved by FTA and Federal Highway Administration (FHWA).

Projects not within metropolitan planning boundaries are required only to be in the STIP. The grant application should identify the latest approved STIP (or amendments) containing the project(s), the appropriate page numbers or other identifying numbers, and a statement identifying the date that FTA and FHWA approved the STIP (or STIP amendment) that contains the proposed project(s) within the appropriate section of the FTA electronic award management system. Projects listed in the TIP and STIP must be derived from and consistent with the state's long-range plan and MPO metropolitan plan

**Authority**

FTA Circular 9040.1G  
FTA Circular 9070.1G  
FTA Circular 5100.1

**Applicability**

Varies by program

**Section 5311 –  
General**

Eligible assistance categories include transit capital, operations, vehicle maintenance, and project administration.

Under 49 U.S.C. § 5311( f) to expend at least 15 percent of its Section 5311 apportionment to develop and support intercity bus transportation, unless after consultation with affected intercity bus service providers it is determined that the intercity bus service needs of the state are met adequately. See Section 3.3 of the State Management Plan for more details on the intercity bus program.

Title 49 U.S.C. § 5311(b)(3) authorizes the secretary “to make grants and contracts for transportation research, technical assistance, training, and related support services in rural areas.” The rural transportation assistance program (RTAP) provides a source of funding to assist in the design and implementation of training and technical assistance projects and other support services tailored to meet the specific needs of transit operators in rural areas. No more than 2 percent of the funds appropriated for Section 5311 each year are available for RTAP.

Title 49 U.S.C. 5311(c)(2) authorizes the Appalachian Development Public Transportation Assistance Program (ADTAP), which allocates funds by statutory formula (see Formula Allocations section below). This new program is funded with a takedown from the Section 5311 program to provide additional funding to states in the Appalachian region of the United States. FTA apportions the funds to designated states, including North Carolina for purposes eligible under Section 5311; including capital, operating, planning, job access and reverse commute projects, and administrative costs.

**Section 5311 Capital**

Section 5311 funds may be used to pay for the capital and operating expenses of a rural transit system.

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 as well as certain other expenses classified as capital. Examples of eligible capital expenses include, but are not limited to:

- (1) buses;
- (2) vans or other paratransit vehicles;
- (3) radios and communications equipment;
- (4) passenger shelters, bus stop signs, park and ride lots, and similar passenger amenities;
- (5) wheelchair lifts and restraints;
- (6) vehicle rehabilitation, remanufacture, or overhaul;
- (7) preventive maintenance;
- (8) the public transportation portion of ferryboats and terminals;
- (9) operational support such as computer hardware or software;
- (10) installation costs, vehicle procurement, testing, inspection, and acceptance costs;
- (11) construction or rehabilitation of transit facilities including design, engineering, and land acquisition;
- (12) facilities to provide access for bicycles to transit facilities or equipment for transporting bicycles on transit vehicles;
- (13) lease of equipment or facilities when a lease is more cost-effective than purchase. Note that when a lease of equipment or facilities is treated as a capital expense, the state must establish criteria for determining cost-effectiveness, in accordance with FTA regulations, "Capital Leases," 49 CFR part 639;
- (14) the 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 recipient 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, recipients may not capitalize under the contract any costs incurred delivering services ineligible for FTA assistance (e.g., charter or school bus service). Recipients may compute capital costs as a fixed percentage of the contract without

further justification.

(15) a joint development improvement that:

- a. enhances economic development or incorporates private investment, such as commercial and residential development;
- b. enhances the effectiveness of public transportation and is related physically or functionally to public transportation, or establishes new or enhanced coordination between public transportation and other transportation;
- c. provides a fair share of revenue that will be used for public transportation;
- d. provides that a person making an agreement to occupy space in a facility shall pay a fair share of the costs of the facility through rental payments and other means; and
- e. does not include outfitting of commercial space (other than an intercity bus or rail station or terminal) or a part of a public facility not related to public transportation.
- f. a joint development improvement may include:
  - i. property acquisition;
  - ii. demolition of existing structures;
  - iii. site preparation
  - iv. utilities;
  - v. building foundations;
  - vi. walkways;
  - vii. pedestrian and bicycle access to a public transportation facility;
  - viii. construction, renovation, and improvement of intercity bus and intercity rail stations and terminals;
  - ix. renovation and improvement of historic transportation facilities;
  - x. open space;
  - xi. safety and security equipment and facilities (including surveillance, and related intelligent transportation system applications);
  - xii. facilities that incorporate community services such as daycare or health care;
  - xiii. capital projects for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; and
  - xiv. construction of space for commercial uses;

(16) the introduction of new technology, through innovative and improved products, into public transportation;

(17) nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 12143), but only for grant recipients that are in compliance with



applicable requirements of the Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of a recipient's annual formula apportionment under Section 5311;

- (18) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under Chapter 53 of Title 49, United States Code;
- (19) mobility management, consisting 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 into with a person, including a governmental authority, but excludes operating expenses; or
- (20) associated capital maintenance, including equipment, tires, tubes, and material, each costing at least 0.5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used; and reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least 0.5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used.

**Section 5311 –  
Operations**

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

Only **net** operating expenses are eligible for assistance. Net operating expenses are those expenses that remain after the subrecipient subtracts operating revenues from eligible operating expenses. NCDOT requires that in tabulating operating revenues, NCDOT requires the following to be deducted from total operating costs:

- (1) all farebox revenues;
- (2) pre-paid passes (whether purchased by an individual or by an organization on behalf of an individual; and
- (3) route guarantees.

Farebox revenues do not include payments made directly to the

transportation provider by human service agencies to purchase service.

However, the purchase of transit passes or other fare media for clients would be considered farebox revenue. A voluntary or mandatory fee that a university or similar institution imposes on all its students for free or discounted transit service is not farebox revenue. Payments made directly to the transportation provider by human service agencies and university fees passed on to the transit provider would be considered “program income” and may be used to reduce the net operating cost of the service or may be used as local match on the existing grant.

**Section 5311 –  
Administration**

Under the Section 5311 program, the FTA permits NCDOT to treat project administrative expenses incurred by a local provider as a separate cost category from capital, planning, or operating expenses. This allows states to consider administrative expenses as “nonoperating” expenses. FTA may fund nonoperating expenses up to the 80 percent federal share or more if the state is eligible for the sliding scale of 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; and approved overhead rates.

FTA provides NCDOT flexibility in the definition of expenses that are eligible under the administrative category. Health insurance, for example, for employees in the administrative category, is an eligible expense. Similarly, NCDOT will permit vehicle insurance to be treated as an allowable administrative expense.

**Section 5310 -  
General**

Section 5310 funds are available for capital and operating expenses to support the provision of transportation services to meet the specific needs of seniors and individuals with disabilities.

Under federal law, a minimum of 55% of funds apportioned to the state must be used for “traditional” Section 5310 – those 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. It is not sufficient

that seniors and individuals with disabilities are merely included (or assumed to be included) among the people who will benefit from the project.

**Section 5310 –  
Traditional Capital  
Projects**

Funds for the Section 5310 program are available for capital expenses as defined in 49 U.S.C. § 5302(3) to support 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. Examples of capital expenses that meet the 55 percent requirement, which must be carried out by an eligible recipient or subrecipient as described in section 5 of this chapter above, include, but are not limited to:

- (1) Rolling stock and related activities for Section 5310-funded vehicles
  - a. Acquisition of expansion or replacement buses or vans, and related procurement, testing, inspection, and acceptance costs;
  - b. Vehicle rehabilitation or overhaul;
  - c. Preventive maintenance;
  - d. Radios and communication equipment; and
  - e. Vehicle wheelchair lifts, ramps, and securement devices.
- (2) Passenger facilities related to Section 5310-funded vehicles
  - a. Purchase and installation of benches, shelters, and other passenger amenities
- (3) Support facilities and equipment for Section 5310-funded vehicles
  - a. Extended warranties that do not exceed the industry standard;
  - b. Computer hardware and software;
  - c. Transit-related intelligent transportation systems (ITS);
  - d. Dispatch systems; and
  - e. Fare collection systems.
- (4) Lease of equipment;
- (5) Acquisition of transportation services under a contract, lease, or other arrangement;
- (6) Support for mobility management and coordination programs among public transportation providers and other human service agencies providing transportation. Mobility management activities may include:
  - a. The promotion, enhancement, and facilitation of access to transportation services, including the integration and coordination of services for individuals with disabilities, seniors, and low-income individuals;

- b. Support for short-term management activities to plan and implement coordinated services;
- c. The support of state and local coordination policy bodies and councils;
- d. The operation of transportation brokerages to coordinate providers, funding agencies, and passengers;
- e. The provision of coordination services, including employer-oriented transportation management organizations' and human service organizations' customer-oriented travel navigator systems and neighborhood travel coordination activities such as coordinating individualized travel training and trip planning activities for customers
- f. The development and operation of one-stop transportation traveler call centers to coordinate transportation information on all travel modes and to manage eligibility requirements and arrangements for customers among supporting programs; and
- g. Operational planning for the acquisition of intelligent transportation technologies to help plan and operate coordinated systems inclusive of geographic information systems (GIS) mapping, global positioning system technology, coordinated vehicle scheduling, dispatching and monitoring technologies, as well as technologies to track costs and billing in a coordinated system, and single smart customer payment systems. (Acquisition of technology is also eligible as a standalone capital expense).

Capital activities (e.g., acquisition of rolling stock and related activities, acquisition of services, etc.) to support ADA-complementary paratransit service may qualify toward the 55 percent requirement, so long as the service is provided by an eligible recipient/subrecipient as defined in section 5, above, and is included in the coordinated plan.

**Section 5310 – Other Eligible Projects**

After programming funds for traditional Section 5310 projects, NCDOT may award funds for other types of projects. Up to 45 percent of a rural, small urbanized, or large urbanized area's annual apportionment may be utilized for:

- (1) Public transportation projects (capital only) planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;

- (2) Public transportation projects (capital and operating) that exceed the requirements of ADA;
- (3) Public transportation projects (capital and operating) that improve access to fixed-route service and decrease reliance by individuals with disabilities on ADA-complementary paratransit service;
- (4) Alternatives to public transportation (capital and operating) that assist seniors and individuals with disabilities with transportation.
- (5) Making accessibility improvements to transit and intermodal stations not designated as key stations;
- (6) Public Transportation Alternatives that Assist Seniors and Individuals with Disabilities with Transportation, such as:
  - a. Purchasing vehicles to support accessible taxi, ride-sharing, and/or vanpooling programs;
  - b. Supporting the administration and expenses related to voucher programs for transportation services offered by human service providers; and
  - c. Supporting volunteer driver and aide programs.

**Section 5339 – Capital Projects**

Eligible capital projects include projects to replace, rehabilitate, and purchase buses and related equipment, and projects to construct bus-related facilities. This includes but is not limited to:

- (1) The acquisition of buses for fleet and service expansion;
- (2) Bus maintenance and administrative facilities;
- (3) The acquisition of vans for fleet and service expansion, including specialized vans and related facilities used to provide ADA complementary paratransit service:
- (4) Transfer facilities;
- (5) Bus malls;
- (6) Transportation centers;
- (7) Intermodal terminals;
- (8) Intercity facilities which are part of a joint development project;
- (9) Park-and-ride stations;
- (10) Acquisition of replacement vehicles;
- (11) Bus rebuilds;
- (12) Bus overhauls;
- (13) Passenger amenities such as passenger shelters and bus stop signs;
- (14) Accessory and miscellaneous equipment such as:
  - a. mobile radio units;

- b. supervisory vehicles;
  - c. fare boxes;
  - d. computers; and
  - e. shop and garage equipment.
- (15) Clean Fuels Projects, such as vehicles 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
- (16) 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;
- (17) Introduction of new technologies, such as:
- a. real-time bus arrival information available to passengers through electronic displays at bus stops;
  - b. automatic vehicle locators;
  - c. automated passenger counters;
  - d. vehicle component monitoring (diagnostics)
  - e. advanced fare payment methods
  - f. computer-aided dispatching and real-time ridesharing; and
  - g. automated information for travelers using more than one mode of transportation
- (18) Environmental assessments and compliance activities;
- (19) Capital cost of contracting; and
- (20) Bicycle facilities.

**State Administration** NCDOT may use not more than 10 percent of its apportioned Section 5311 funds, including funds apportioned under Section 5340 (but not including the State’s RTAP allocation) to administer the Section 5311 program, related planning, and to provide technical assistance to subrecipients. Similarly, NCDOT may use up to 10 percent of the State’s total fiscal year apportionments under the Section 5310 program to fund program administration costs including administration, planning, and technical assistance for projects funded under this program.

**Authority** FTA Circular 9040.1G  
 FTA Circular 9070.1G  
 FTA Circular 5100.1



**Applicability**

Varies by program

**Section 5311 –  
Federal Share: Capital**

The federal share for capital projects that receive funding under the Section 5339 program may not exceed 80 percent of the net project cost.

The federal share may exceed 80 percent for certain projects related to the ADA, CAA, and certain bicycle projects as follows:

- (1) **Vehicles.** The federal share is 85 percent for the acquisition of vehicles for purposes of complying with or maintaining compliance with the Americans with Disabilities Act of 1990 (ADA; 42 U.S.C. 12101 et seq.) or the Clean Air Act (CAA; 42 U.S.C. 7401 et seq.). A revenue vehicle that complies with 49 CFR part 38 may be funded at 85 percent federal share.
- (2) **Vehicle-Related Equipment and Facilities.** The federal share for project costs for acquiring vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying or maintaining compliance with the CAA, or required by the ADA, is 90 percent.

FTA considers vehicle-related equipment to be equipment on and attached to the vehicle.

The grant recipient may itemize the cost of specific, discrete, vehicle-related equipment being purchased to be in compliance with ADA or CAA. The federal share is 90 percent of the cost for these itemized elements.

- (3) **Bicycle Facilities.** As provided by 49 U.S.C. 5319, the federal share is 90 percent for those bicycle access projects or portions of bicycle access projects designed to:
  - a. provide access for bicycles to public transportation facilities,
  - b. provide shelters and parking facilities for bicycles in or around public transportation facilities, or
  - c. install equipment for transporting bicycles on public transportation vehicles.



**Section 5311 –  
Federal Share:  
Operating**

49 U.S.C. 5311(g)(2) provides that the federal share shall not exceed 50 percent of the net operating cost of the project.

Under Subsection 5311(g)(3)(A), funds received pursuant to a service agreement with a state or local social service agency or a private social service organization may be used as local match. Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide the local match for Section 5311 operating assistance (treated as program income). In either case, the cost of providing the contract service is included in the total project cost. Unlike other forms of program income, income from contracts to provide human service transportation may be used as the local match for the grant in which the income is generated.

The manner in which a subrecipient applies income from human service agencies to a project affects the calculation of net operating expenses and, therefore, the amount of Section 5311 operating assistance the project is eligible to receive. A state's method of suballocating its apportionment among its subrecipients is a discretionary action, subject only to the statutory requirements. While a state may not prohibit a subrecipient from using income from human service agency contracts as a source of local match, the state may elect to regard the degree to which a subrecipient demonstrates local financial commitment to the project from other sources of local funds as a rating factor in its discretionary allocation decisions.

**Section 5311 – Local  
Share**

Under 49 U.S.C. § 5311(g)(3), the local share may be met by any of the following sources:

- (1) Cash from non-Government sources;
- (2) Revenues from the sale of advertising and concessions;
- (3) Undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;
- (4) Amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; or

- (5) Notwithstanding subparagraph (B), may be derived from amounts made available to carry out the federal lands highway program established by section 204 1 of title 23.

This section also provides one additional avenue for the provision of local match for Section 5311(f) projects, described in more detail below.

**Section 5311(f) –  
Special Local Share  
Provisions**

49 U.S.C. § 5311(g)(3)(D) provides that in the case of an intercity bus project that includes both feeder service and an unsubsidized segment of intercity bus service to which the feeder service connects, the local match “may be derived from the costs of a private operator for the unsubsidized segment of intercity bus service as an in-kind match for the operating costs of connecting rural intercity bus feeder service funded under 5311(f).

To use the net project cost provided by a private operator as an in-kind match, the FTA-assisted project must be defined by the applicant and NCDOT as including both the feeder service and an unsubsidized segment of the intercity bus network to which it connects. Importantly, this matching method may only be used if the private operator agrees in writing to the use of the costs of the private operator for the unsubsidized segment of intercity bus service as an in-kind match.

**Section 5310 –  
Federal Share**

Section 5310 funds may be used to finance capital and operating expenses. The federal share of eligible capital costs shall be in an amount equal to 80 percent of the net cost of the activity. The federal share of the eligible operating costs may not exceed 50 percent of the net operating costs of the activity.

As is the case with other FTA programs, similar exceptions exist in the Section 5310 program on the federal participation ratio, as follows:

- (1) **Vehicles.** The federal share is 85 percent for the acquisition of vehicles for purposes of complying with or maintaining compliance with ADA (42 U.S.C. 12101 et seq.) or the CAA. A revenue vehicle that complies with 49 CFR part 38 may be funded at 85 percent federal share.
- (2) **Vehicle-Related Equipment and Facilities.** The federal share for project costs for acquiring vehicle-related equipment or facilities

(including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying or maintaining compliance with the CAA (42 U.S.C. 7401 et seq.), or required by the ADA, is 90 percent. FTA considers vehicle-related equipment to be equipment on and attached to the vehicle.

**Section 5310 – Local Share**

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.

Non-cash share such as donations, volunteered services, or in-kind contributions is eligible to be counted toward the local match as long as the value of each is documented and supported, represents a cost that 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 the 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. All sources of the local match must be identified and described in the grant application at the time of grant award.

In addition, 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 types of programs that are potential sources of local match include employment, training, aging, medical, community services, and rehabilitation services. Specific program information for other types of federal funding is available at [www.unitedweride.gov](http://www.unitedweride.gov).

**Section 5339 –  
Federal Share**

The federal share for capital projects that receive funding under the Section 5339 program may not exceed 80 percent of the net project cost. There are three exceptions to this rate of federal participation:

- (1) **Vehicles.** The federal share is 85 percent for the acquisition of vehicles for purposes of complying with or maintaining compliance with the Americans with Disabilities Act (ADA; 42 U.S.C. 12101 et seq.) or the Clean Air Act (CAA; 42 U.S.C. 7401 et seq.).
- (2) **Vehicle-Related Equipment and Facilities.** The federal share for project costs for acquiring vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying or maintaining compliance with the CAA, or for meeting the requirements of the ADA, is 90 percent.
- (3) **Bicycle Facilities.** As provided by 49 U.S.C. 5319, the federal share is 90 percent for those bicycle access projects or portions of bicycle access projects designed to:
  - a. provide access for bicycles to public transportation facilities;
  - b. provide shelters and parking facilities for bicycles in or around public transportation facilities; or
  - c. install equipment for transporting bicycles on public transportation vehicles.

**Section 5339 – Local  
Share**

The local match for Section 5339 may include:

- (1) Cash from nongovernmental sources other than revenues from providing public transportation services;
- (2) Non-farebox revenues from the operation of public transportation services, such as the sale of advertising and concession revenues. A voluntary or mandatory fee that a college, university, or similar institution imposes on all its students for free or discounted transit service is not farebox revenue;
- (3) Amounts received under a service agreement with a state or local social service agency or private social service organization;
- (4) Undistributed cash surpluses, replacement or depreciation cash funds, reserves available in cash, or new capital.

Additionally, the following sources may also be used as the match under specified conditions:

- (5) Revenue Bond Proceeds as Local Share. A recipient of Section 5339 funds may use the proceeds from the issuance of revenue bonds as part of the local match for a capital project, with prior FTA approval. Farebox receipts are one type of revenue that may be used to secure bonds. Use of the proceeds of revenue bonds as local share will be approved only if FTA finds that the aggregate amount of financial support for public transportation in the UZA provided by the state and affected local governmental authorities during the next three fiscal years, as programmed in the STIP, is not less than the aggregate amount provided by the state and affected local governmental authorities in the UZA during the preceding three fiscal years.
- (6) Transportation Development Credits (formerly referred to as Toll Revenue Credits). A state may use, as a credit toward a project's local share, certain expenditures it has made with toll revenues. The amount of credit toward local share to be earned by a state is based on revenues generated by toll authorities within the state that are used by the authorities to build, improve, or maintain highways, bridges, or tunnels that serve interstate commerce. A recipient wishing to apply the provisions of 23 U.S.C. 120(j) should discuss with its state Department of Transportation (state DOT) the availability of transportation development credits for use as local share in matching FTA grants and should obtain a letter from the state DOT indicating that TDCs are available for a project before submitting a grant application in FTA's electronic grants management system. FHWA oversees the determination of transportation development credits within each state, and FTA follows the FHWA methodology for calculating these credits as match. FTA will not approve a retroactive application of transportation development credits.

**State Share of Project Costs** FTA grant programs do not require the state to provide any match to the appropriated federal funds. However, the amount of local matching funds needed to receive a federal transit grant may be reduced if state funds are available to assist subrecipients. IMD will determine when state funds are available and the amount of state assistance that will be provided for each program.

**Program Income as a Source of Local Share** Subrecipients may use program income generated by an earlier grant as the local share for a subsequent eligible public transportation project. FTA does

**of Project Costs**

not permit subrecipients to use program income as the local share for the grant that generated the income.

The subrecipient's accounting system must be capable of identifying program income and the purpose for which the subrecipient used it. The subrecipient must account for program income in its accounting system, which is subject to audit.

**Authority**

FTA Circular 9040.1G  
FTA Circular 9070.1G  
FTA Circular 5100.1  
FTA Circular 5010.1E  
2 CFR § 200  
2 CFR § 1201.80

**Applicability**

Varies by program

**Section 5311**

When permitted, NCDOT may transfer funds to the Section 5311 program.

The governor may transfer any amount of the state's apportionment under 49 U.S.C § 5307 for small UZAs under two hundred thousand in population to supplement the state's Section 5311 program. The governor may make such transfers only after consultation with responsible local officials and publicly owned operators of public transportation services in each area to which the funding was originally apportioned. The governor may transfer funds without consultation within the last ninety days in which the funds are available for obligation, for use anywhere in the state.

NCDOT may transfer Surface Transportation Program (STP) funds, Congestion Mitigation and Air Quality (CMAQ) funds, and certain other flexible funds, from FHWA to FTA to use for transit projects. NCDOT, in cooperation with affected local officials, select projects in rural areas with populations less than fifty thousand (excluding projects on the National Highway System [NHS] and projects funded with bridge and interstate maintenance funds).

Generally, flexible funds transferred to Section 5311 are subject to the program requirements applicable to Section 5311.

**Section 5310**

NCDOT may use funds apportioned for small urbanized and rural areas for projects serving another area, including large urbanized areas, if the Governor certifies that all of the objectives of the Section 5310 program are being met in the specified areas. NCDOT will consult with responsible local officials, publicly owned operators of public transportation, and nonprofit providers in the area from which the funds to be transferred were originally apportioned.

NCDOT is not permitted to transfer funds from large UZAs.

**Section 5339**

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

Section 5339 funds are not available to be transferred between FHWA and FTA for transit or highway projects.

**Authority**

FTA Circular 9040.1G  
FTA Circular 9070.1G  
FTA Circular 5100.1



**Applicability**

Subrecipients receiving both Section 5307 and Section 5311 funds

**General**

NCDOT encourages the coordination of services in urbanized and nonurbanized areas.

In some localities, a subrecipient receives both Section 5307 and 5311 funding to provide public transportation to urbanized and surrounding rural areas. NCDOT is required to ensure that such joint projects only use Section 5311 funds to assist the rural portion of those localities.

Because of the wide range of circumstances under which an operator may provide services in both urbanized and rural areas, FTA expects the subrecipient to develop a reasonable basis related to the service provided, for allocating operating costs between the two FTA funding sources. The subrecipient must also apply this procedure to “joint” capital projects. Similarly, a subrecipient that purchases vehicles under either the Section 5307 or 5311 program for use in any part of a combined urbanized and rural service area should ensure that it has capital replacement policies in place to ensure that it is using program funds according to federal eligibility requirements. When there is a question as to the reasonableness of the subrecipient’s cost allocation methodology, FTA looks to NCDOT to make a determination.

**Cost Allocation Requirement**

Subrecipients who receive both Section 5703 and Section 5311 funds are required to allocate expenses not readily attributable to urban or rural service using methods that will proportionally assign such shared expenses to the respective grant program based on the amount of service provided in rural and urban areas. This is done by determining the percentage of service that operates in rural/urban areas and using that percentage to allocate total expenses to each grant. (Ex: transit systems that operate 80% of the time in rural areas would charge 80% of expenses to 5311 and 20% to 5307). This process is known as a service-based cost-allocation plan. While FTA has stated that the method a recipient chooses to determine how their services

are split between rural and urbanized areas is up to the subrecipient, that method must be consistent and fair.

IMD provides a cost-allocation model that analyzes trip data and provides multiple options for cost-allocation to transit systems. Transit systems must choose a cost-allocation method and provide IMD with the completed model.

**Authority**

FTA Circular 9040.1G

<b>Program Applicability</b>	All programs
<b>General</b>	Transit leaders are expected to participate in the local metropolitan and/or rural planning processes facilitated by the planning agencies in the cities and/or regions of their service area. It is important for transit to know the highway engineers, the local community officials, and political representatives that attend planning meetings. These individuals have a leading role in setting spending priorities and awarding state funds for expansion projects and purchases.
<b>State Transportation Improvement Program (STIP):</b>	The STIP is a federally- mandated, 10-year planning document that shows how federal/state/local transportation funds will be spent throughout the state. Projects that utilize FTA or FHWA funds that do not have IMD oversight must be reflected in the STIP
<b>Coordination with the Grants Calendar</b>	NCDOT programs funds on an annual basis to coincide with the state fiscal year (July 1 – June 30).  A calendar containing the posting dates of the applications for each of the funding programs will be posted on the IMD website. The application documents for each program will be available for download from the IMD website on the date noted in the calendar. An email alert announcing the Call for Projects for each grant application cycle will be sent to past applicants and current subrecipients.
<b>Locally Developed Coordinated Public Transit Human Services Transportation Plan</b>	Federal transit law, as amended by the FAST Act, requires that projects selected for funding under the Section 5310 program be “included in a locally developed, coordinated public transit-human services transportation plan” and that the plan be “developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers and other members of the public.”

Projects selected for funding shall be included in a coordinated plan that minimally includes the following elements at a level consistent with available resources and the complexity of the local institutional environment:

- (1) An assessment of available services that identifies current transportation providers (public, private, and nonprofit);
- (2) An assessment of transportation needs for individuals with disabilities and seniors. This assessment can be based on the experiences and perceptions of the planning partners or on more sophisticated data collection efforts, and gaps in service;
- (3) Strategies, activities, and/or projects to address the identified gaps between current services and needs, as well as opportunities to achieve efficiencies in service delivery; and
- (4) (4) Priorities for implementation based on resources (from multiple program sources), time, and feasibility for implementing specific strategies and/or activities identified.

**Role of Public Transit Providers in the Coordinated Plan**

Recipients of Section 5307 and Section 5311 assistance are the “public transit” in the public transit/human services transportation plan and their participation is assumed and expected.

Further, 49 U.S.C. 5307(b)(5), requires that “Each recipient of a grant shall ensure that the proposed program of projects (POP) provides for the coordination of public transportation services ... with transportation services assisted from other United States Government sources.” In addition, 49 U.S.C. 5311(b)(2)(C)(ii) requires the Secretary of DOT to determine that a state’s Section 5311 projects “provide the maximum feasible coordination of public transportation service ... with transportation service assisted by other federal sources.” Finally, under the Section 5311 program, states are required to expend 15 percent of the amount available to support intercity bus service.

**Authority**

49 U.S.C. § 5307  
49 U.S.C. § 5311  
FTA Circular 9070.1G

**Applicability**

Varies by program

**Section 5307:  
Governor's  
Apportionment**

IMD is responsible for allocating funds apportioned to small urban areas through the 5307 Governor's Apportionment. IMD allocates these funds through a split letter to FTA. IMD creates one split letter per fiscal year and designates funds based on eligible recipients' five-year, needs-based budgets-which are submitted to IMD. Funds from the oldest apportionment should be put in FTA grants first to avoid a lapsing of those funds.

IMD, as part of its responsibilities for managing the Governor's Apportionment, will continue to work cooperatively with small urbanized areas to ensure that the apportioned funds do not lapse. In the final year of apportionment of any FTA grant funds that are not projected to be expended by the lapse date, the MPO or the transit system will be obligated to inform NCDOT 180 days before the lapse date. NCDOT will then take action to re-allocate the funds to another project in the UZA or another designated or direct recipient.

Federal transit law specifically assigns the governor the authority to manage these funds; as the governor's designated entity to manage federal transit funds, IMD will maintain this responsibility. IMD will work cooperatively with the respective MPOs and designated recipients in the preparation of split letters, consistent with a needs-based budget.

IMD has announced in July 2021 its intentions to transfer most of the responsibility for Section 5307 administration directly to the eligible recipient in each urbanized area, effective with Federal Fiscal Year 2023.

**Section 5311**

The program of projects NCDOT submits to FTA for approval must provide for fair and equitable distribution of the apportionment in the state, including Indian reservations, as well as maximum feasible coordination with other public transportation services assisted by other federal sources.

NCDOT must assure FTA that the Program of Projects provides for fair and

equitable distribution of the apportionment in the state, including Indian reservations, as well as maximum feasible coordination with other public transportation services assisted by other federal sources.

All nonurbanized areas of North Carolina are eligible to receive Section 5311 funds. Since 1979, NCDOT has sponsored a locally developed planning process that is designed to ensure the maximum feasible coordination with transportation service providers assisted by other federal sources. This planning process is required to designate “lead agencies” that will serve as the administrative entity to deliver coordinated public or specialized transportation in the service area and be the recipient of funding from NCDOT.

**Section 5310**

FTA does not require a competitive selection process for Section 5310; however, NCDOT must ensure that a fair and equitable distribution occurs. NCDOT’s procedures include:

- (1) Assuring equity of distribution of benefits among eligible groups within the state or urbanized areas, as required by Title VI of the Civil Rights Act;
- (2) Assuring that projects were included in a locally developed coordinated plan; and
- (3) Documenting evidence that the local coordinated plan was developed and approved in cooperation with stakeholders, including individuals with disabilities and seniors utilizing transportation services.

NCDOT will evaluate and rank project applications based on the following criteria:

- (1) Statement of needs – The applicant must demonstrate how the project is consistent with the locally developed plan.
- (2) Implementation plan – For all projects, applicants must provide a well-defined service operations plan and/or capital procurement plan, and describe the implementation steps and timelines for carrying out the plan.
- (3) Budget – Applicants must submit a complete project budget, indicating anticipated project expenditures and revenues, including documentation of matching funds. The application should address long-term efforts and identify potential funding sources for sustaining the service beyond the grant period.

- (4) Program effectiveness – The project will be scored based on the applicant’s identification of clear, measurable outcome-based performance measures to track the effectiveness of the service. The applicant should be monitoring and evaluating the service throughout the period of performance.
- (5) Technical Capacity – Projects should be a good fit in the applicant’s organization. The applicant must demonstrate that it has staff with the technical experience to manage or operate a transportation service. In addition, the applicant must show that they are prepared to monitor and provide safe services.

**Section 5339**

Based on documented capital needs, NCDOT will provide capital assistance through Bus and Bus Facilities program. Only entities that are current FTA recipients are eligible to receive Section 5339 program funding.

**Authority**

FTA Circular 9040.1G  
FTA Circular 9070.1G  
FTA Circular 5100.1  
FTA Circular 9030.1E

**IMD Responsibilities** All projects must be certified as having met all the federal and state statutory and administrative requirements to be considered a Category A project. A Category A project will be unconditional upon grant award.

In selecting projects, IMD will:

- (1) Evaluate the project's eligibility for funding;
- (2) Determine if the applicant has the technical and managerial capacity to perform the project; and
- (3) Decide whether the project budget accurately predicts expenses within allowable limits.

The recommendation will determine if an application receives further funding consideration.

**Authority**

FTA Circular 9040.1G  
FTA Circular 9070.1G  
FTA Circular 5100.1  
FTA Circular 9030.1E



### 3.3

## Intercity Bus Projects

**Applicability** State recipients of Section 5311 – NCDOT Only

**Federal Requirements** 49 U.S.C. § 5311(f) requires each state to expend at least 15 percent of its annual Section 5311 apportionment “to carry out a program to develop and support intercity bus transportation,” unless the governor certifies that “the intercity bus service needs of the state are being met adequately.” Additionally, Section 5311(f) requires a state to consult with intercity bus providers before the governor makes this certification.

The requirement to spend at least 15 percent applies only to the amount of FTA’s annual apportionment of Section 5311 funds to the state; it does not apply to any funds the state subsequently transfers to its Section 5311 program from another program.

**State Implementation** NCDOT recognizes the importance of providing intercity bus routes to connect communities across North Carolina.

NCDOT, in partnership with Intercity Bus Providers, offers a safe, comfortable and affordable alternative to driving between major cities throughout the state.

These services are scheduled with fixed routes that provide transportation between major North Carolina cities, as well as cities in South Carolina and Virginia.

Federal funding is provided to intercity bus providers to operate routes that serve communities by providing regional transportation.

**Matching Requirements** 49 U.S.C. § 5311(g)(3)(D) provides that in the case of an intercity bus project that includes both feeder service and an unsubsidized segment of intercity bus service to which the feeder service connects, the local match “may be derived from the costs of a private operator for the unsubsidized segment of intercity bus service as an in-kind match for the operating costs of connecting rural intercity bus feeder service funded under 5311(f).”

NCDOT permits this type of match for its approved intercity bus providers.

**Authority**

FTA Circular 9040.1G

## 3.4

## Annual Program of Projects

### Applicability

All Programs

### IMD Responsibilities

After IMD completes its review of all the applications, a Program of Projects is prepared.

Projects in the POP may be categorized as Category A or Category B.

Projects in Category A include those projects that NCDOT has determined have met all the federal statutory and administrative requirements for approval applicable to both the project activities and the subrecipient.

Projects in Category B include those projects that NCDOT anticipates approving during the current fiscal year but have not yet met all federal statutory and/or administrative requirements. For example, a project that has not yet completed the National Environmental Policy Act (NEPA) process or other federal environmental requirements for a facility project may be classified as Category B.

Once developed, the POP will be submitted to the NCDOT Board of Transportation (BOT) for approval. Requested action of the BOT will not only include a recommendation for federal programming but will also include approval of any state funding amount committed to the project. Minutes of these meetings will be published on the NCDOT website.

Following BOT action, IMD staff will submit the project application to FTA

NCDOT will draw up the financial assistance contract for the project only after FTA approval of the project. A grant agreement must be executed by the subrecipient and then will be executed by NCDOT.

### Authority

FTA Circular 9040.1G  
FTA Circular 9070.1G  
FTA Circular 5100.1

**Applicability**

Varies by program

**IMD Responsibilities:  
Section 5311**

The state may use not more than 10 percent of its apportioned Section 5311 funds, including funds apportioned under Section 5340 but not the RTAP allocation, to administer the Section 5311 program, related planning, and to provide technical assistance to subrecipients.

Allowable administrative costs include salaries, overhead expenses, supplies, and office equipment used to administer the program. Allowable technical assistance costs may include program planning, program development, development of vehicle and equipment specifications, management development, coordination of public transportation programs (public and private for-profit and nonprofit), and such research as the state may deem appropriate to promote effective means of delivering public transportation service in rural areas. No local share is required for these expenses. The state may pass any portion of these funds on to subrecipients for the same purposes and, at its discretion, may impose a local share requirement.

**IMD Responsibilities:  
Section 5310**

Up to 10 percent of the NCDOT's total fiscal year apportionment may be used to fund program administration costs including administration, planning, and technical assistance for projects funded under this program.

Recipients may pass any portion of funds available for administrative expenses, up to the allowable 10 percent, on to subrecipients for the same purpose. Program administration costs may be funded at 100 percent federal share.

The state and the designated recipient in urbanized areas have pre-award authority to incur administrative costs for Section 5310. Because the program is continuously managed, the oldest funds available are drawn first regardless of the year of award for program activity.

FTA encourages recipients to identify all the available Section 5310

administrative funds they intend to use routinely in each annual grant application. However, recipients may choose to accumulate Section 5310 administrative funds within their period of availability to augment the funds available for a special administrative need in a subsequent year. Recipients may accumulate Section 5310 administrative funds in the year of apportionment plus two years.

**IMD Responsibilities:** There is no state administrative set-aside in the Section 5339 program.  
**Section 5339**

**Authority** FTA Circular 9040.1G  
FTA Circular 9070.1G  
FTA Circular 5100.1

**Applicability**

NCDOT

**Program Goals**

49 U.S.C. 5311(b)(3) authorizes the secretary “to make grants and contracts for transportation research, technical assistance, training, and related support services in rural areas.” The rural transportation assistance program (RTAP) provides a source of funding to assist in the design and implementation of training and technical assistance projects and other support services tailored to meet the specific needs of transit operators in rural areas.

The objectives of RTAP are to:

- Promote the safe and effective delivery of public transportation in rural areas and make more efficient use of public and private resources;
- Foster the development of state and local capacity for addressing the training and technical assistance needs of the rural transportation community;
- Improve the quality of information and technical assistance available through the development of training, technology, and technical assistance resource materials;
- Facilitate peer-to-peer self-help through the development of local networks of transit professionals;
- Support the coordination of public, private, specialized, and human service transportation services; and,
- Build a national database on the rural segment of the public transportation industry.

**RTAP Activities**

IMD maintains flexibility in its use of RTAP funds to achieve program objectives. Among the activities IMD may undertake:

- (1) Providing technical assistance by IMD staff;
- (2) Entering into contracts with private consultants, universities, nonprofit

- organizations, state transit associations, or other organizations of operators to provide training and technical assistance;
- (3) Providing support of peer-to-peer networks of individuals to assist each other;
  - (4) Creating interagency agreements with other state agencies, both within the state and in other states; and
  - (5) Providing scholarships or tuition and expenses for people to attend training courses or workshops.

**Authority**

FTA Circular 9040.1G

**Applicability**

All projects

**General Requirements**

Federal law requires the public to be involved in the transportation planning process and specifically requires that private providers be provided an opportunity to be consulted in developing transportation plans and programs in both urbanized and rural areas. Public involvement processes must be proactive and provide complete information, timely public notice, full public access to key decisions, and opportunities for early and continuing involvement throughout the transportation planning and programming process.

Transit system leaders are encouraged to partner with private- for-profit bus operators and taxicab companies and engage local and regional planning agencies in discussions about transit services and needs.

Transit system planning and service reviews should include private providers for their input to the following:

- (1) Can any existing services be provided more efficiently by private providers?
- (2) What new services could be developed and operated by private providers?
- (3) Are private providers given a fair opportunity to bid for the operation, maintenance, or administration of any transit services?

The Transportation Advisory Board should include representation from the private transportation sector.

**Authority**

FTA Circular 9040.1G  
 FTA Circular 9070.1G  
 FTA Circular 5100.1



**Applicability**

All recipients of financial assistance, both federal and state, from IMD.

**Recipient/Subrecipient Role in Project Administration**

Recipients and subrecipients of FTA or NCDOT funds must monitor grant-assisted activities to ensure compliance with applicable federal requirements. This includes the administration and management of the award in compliance with federal regulations, the grant agreement, and applicable FTA circulars. A recipient/subrecipient is also responsible for federal assistance that “passes through” to a lower tier subrecipient. Responsibilities include, but are not limited to, actions that:

- (1) Demonstrate the legal, financial, and technical capacity to carry out the program, including safety and security aspects of the program;
- (2) provide administrative and management support of project implementation;
- (3) Provide, directly or by contract, adequate technical inspection, and supervision by qualified professionals of all work in progress;
- (4) Ensure conformity to Grant Agreements and Cooperative Agreements, applicable statutes, codes, ordinances, and safety standards;
- (5) Maintain project work schedules agreed to by FTA and the recipient and monitor activities under the Award to assure schedules are met and other performance goals are achieved;
- (6) Keep expenditures within the latest approved Award Budget;
- (7) Ensure compliance with FTA and federal requirements by agencies, consultants, contractors, and subcontractors working under approved third-party contracts or inter-agency agreements;
- (8) Account for project property and maintain property inventory records that contain all the elements required;
- (9) Demonstrate and retain satisfactory continuing control over the use of project property;
- (10) Demonstrate procedures for asset management and adequate maintenance of equipment and facilities;
- (11) Ensure that an annual independent organization-wide audit is conducted in accordance with Office of Management and Budget

(OMB) guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR part 200, which is incorporated by reference in 2 CFR part 1201, Prepare Cost Allocation Plans (CAPs) or Indirect Cost Proposals and submit and obtain approval if applicable, before incurring costs;

- (12) Prepare required reports (See Chapter III, Section 3, “Reporting Requirements”) for submission to FTA;
- (13) Update and retain FTA required reports and records for availability during audits or oversight reviews;
- (14) Ensure effective control and accountability are maintained for all Grants, Cooperative Agreements, and subagreements, cash, real and personal property, and other assets. Recipients and subrecipients must ensure that resources are properly used and safeguarded, and used solely for authorized purposes; and
- (15) Obtain all necessary prior approvals and/or waivers before incurring costs or taking any requested actions.

**Authority**

FTA Circular 5010.1E

**Applicability**

All recipients of financial assistance, both federal and state, from IMD.

**Financial Management System Standards**

The financial management system of each subrecipient must provide for the following

- (1) Identification, in its accounts, of all federal and state awards received and expended and the federal and state 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) Accurate, current, and complete disclosure of the financial results of each federal award or program in accordance with the reporting requirements imposed by FTA and NCDOT and FTA and NCDOT oversight and monitoring and reporting program performance.
- (3) 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) Effective control over, and accountability for, all funds, property, and other assets. The subrecipient must adequately safeguard all assets and assure that they are used solely for authorized purposes.
- (5) Comparison of expenditures with budget amounts for each federal award.
- (6) Written procedures to implement the requirements of 2 CFR §200.305 which requires the recipient to minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the subrecipient whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means.
- (7) Written procedures for determining the allowability of costs in accordance with Subpart E—Cost Principles of this part and the terms and conditions of the federal award.

**Internal Controls**

Each recipient of funds from IMD must establish and maintain effective internal control over the federal award that provides reasonable assurance that the entity is managing the federal award in compliance with federal statutes, regulations, and the terms and conditions of the federal or state award. These internal controls should comply with the guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

**Matching Funds**

Most FTA programs managed by NCDOT require some type of match to the federal award. The provision of matching funds is subject to the requirements of 2 CFR § 200.306 and requirements as outlined in the respective grant circular published by FTA.

The matching or non-federal, share of costs means the portion of project costs not paid with federal assistance (unless otherwise authorized by federal statute). This cost-share, match, or non-federal share, may include programmatic matching requirements, or other non-federal funds, to constitute the overall Award Budget to complete the scope of work for the Award.

For all federal awards, any matching funds and all contributions, including cash and third party in-kind contributions, must be accepted as part of the entity's cost-sharing or matching when such contributions meet all of the following criteria:

- (1) Are verifiable from subrecipient’s records;
- (2) Are not included as contributions for any other federal award;
- (3) Are necessary and reasonable for accomplishment of project or program objectives;
- (4) Are allowable under Subpart E—Cost Principles of this part;
- (5) Are not paid by the federal government under another federal award, except where the federal statute authorizing a program specifically provides that federal funds made available for such program can be applied to matching or cost-sharing requirements of other federal programs;
- (6) Are provided for in the approved budget when required by the federal awarding agency; and

(7) Conform to other provisions of this part, as applicable.

Non-federal share or non-federal funds include the following sources of funding, or in-kind property or services, used to match the federal assistance awarded for the Grant or Cooperative Agreement: (a) Local funds, (b) Local in-kind property or services, (c) State funds, (d) State in-kind property or services, and (e) Other federal funds that are eligible, under federal law, for use as cost-sharing or matching funds for the Underlying Agreement.

**Special Match Provisions Under FTA Programs**

Under Subsection 5311(g)(3)(C), funds received pursuant to a service agreement with a state or local social service agency or a private social service organization may be used as local match.

Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide the local match for Section 5311 operating assistance (treated as program income). In either case, the cost of providing the contract service is included in the total project cost. Unlike other forms of program income, income from contracts to provide human service transportation may be used as the local match for the grant in which the income is generated.

The manner in which a subrecipient applies income from human service agencies to a project affects the calculation of net operating expenses and, therefore, the amount of Section 5311 operating assistance the project is eligible to receive. A state's method of suballocating its apportionment among its subrecipients is a discretionary action, subject only to the statutory requirements described in this circular. While a state may not prohibit a subrecipient from using income from human service agency contracts as a source of local match, the state may elect to regard the degree to which a subrecipient demonstrates local financial commitment to the project from other sources of local funds as a rating factor in its discretionary allocation decisions.

**Special Requirements for Deposit of Funds**

Local governments and public authorities are required to deposit money received from fares daily. If the governing board gives its approval, deposits shall be required only when the money on hand amount to as much as two hundred fifty dollars (\$250.00), but in any event, a deposit shall be made on the last business day of the month. All deposits shall be made with the

finance officer or in an official depository. A clear delegation of duties must be established when collecting and depositing fare revenues.

**Authority**

2 CFR § 200.300 - § 200.309

FTA Circular 5010.1E

<b>Applicability</b>	All recipients of financial assistance, both federal and state, from IMD.
<b>Basic Considerations</b>	<p>The total cost of a federal or state award is the sum of the allowable direct and allocable indirect costs less any applicable credits.</p> <p>If indirect costs are charged to a grant award, indirect costs claimed must be consistent with the terms of an indirect cost rate proposal submitted and approved by NCDOT or be accordance with rules issued 2 CFR § 200 for use of the de minimis rate of 10%.</p>
<b>Factors Affecting the Allowability of Costs</b>	<p>Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under federal awards:</p> <ol style="list-style-type: none"><li>(1) Be necessary and reasonable for the performance of the federal award and be allocable thereto under these principles.</li><li>(2) Conform to any limitations or exclusions set forth in these principles or in the federal award as to types or amount of cost items.</li><li>(3) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the subrecipient.</li><li>(4) Be accorded consistent treatment. A cost may not be assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the federal award as an indirect cost.</li><li>(5) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.</li><li>(6) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period.</li><li>(7) Be adequately documented.</li></ol>

**Direct Costs**

Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect (F&A) costs.

**Indirect (F&A) Costs**

Indirect (F&A) costs mean those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect (F&A) costs. Indirect (F&A) cost pools should be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

**Role of the Pass-Through Agency in Reviewing, Negotiating, and Approving Indirect Cost Rate Proposals**

In some circumstances, NCDOT, as the pass-through agency of FTA funds, may serve as the agency responsible for approving a subrecipient's indirect cost rate proposal. When the entity does not have approval from a federal cognizant agency for indirect costs, and the agency primarily receives funding through a state pass-through agency such as NCDOT, 2 CFR § 200.331(a)(4) permits NCDOT to review, negotiate, and approve the proposal.

**Certification of Indirect Cost Rate Proposals**

A proposal to establish a cost allocation plan or an indirect (F&A) cost rate, whether submitted to a federal cognizant agency for indirect costs or maintained on file by the subrecipient, must be certified by the subrecipient using the Certificate of Cost Allocation Plan or Certificate of Indirect Costs as set forth in 2 CFR § 200, Appendices III through VII. The certificate must be signed on behalf of the agency by an individual at a level no lower than the vice president or chief financial officer of the subrecipient that submits the proposal.

**Allowable Costs**

The allowability of any costs under a grant award from NCDOT must adhere to the general standards of allowability described above, the selected items of costs detailed in 22 CFR § 200.420 - § 200.475, the eligible cost section of



each programmatic circular issued by FTA (typically found in Chapter III of each circular), and any limitations as specified in the grant agreement and approved project budget.

**Requirement for  
Written Policies**

Consistent with the requirements found at 2 CFR § 200.302(b)(7), any recipient of funds from IMD must have written policies for determining the allowability of costs in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

**Authority**

2 CFR § 200

## 4.3

## Program Income

### Applicability

All recipients of financial assistance, both federal and state, from IMD.

### Policy

Recipients are encouraged to earn income to defray program costs where appropriate.

FTA's program income policy for states, local governments, Indian tribes, and institutions of higher learning and nonprofit organizations are at 2 CFR § 200.307 as modified by 2 CFR § 1201.80. The "Program Income" provisions of 2 CFR § 1201.80 supersede the "Program Income" provisions of 2 CFR § 200.80 and as further described in the latest FTA Master Agreement. FTA recognizes program income to be gross income (minus the cost of generating program income) earned by the subrecipient, that is directly generated by a supported activity, or earned only as a result of the federal Award during the period of performance, per 2 CFR § 200.77.

### Program Income, Defined

Program income means gross income earned by the recipient or subrecipient that is directly generated by a supported activity or earned as a result of the Grant or Cooperative Agreement during the period of performance. Program income includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under federal awards, the sale of commodities or items fabricated under a federal Award, license fees and royalties on patents and copyrights, and principal and interest on loans made with federal assistance. Interest earned on advances of federal assistance is not program income. Except as otherwise provided in federal statutes, regulations, or the terms and conditions of the federal award, program income does not include rebates, credits, discounts, taxes, special assessments, levies, and fines raised by a recipient and subrecipient, and interest earned on any of them.

Program Income includes, but is not limited to, the following income:

- (1) Fees for services performed;
- (2) The use or rental of real or personal property acquired under its Award;

- (3) The sale of commodities or items fabricated under its award;
- (4) License fees and royalties on patents and copyrights;
- (5) Advertising/concessions specifically required by the federal award, and pertaining to specific activities or accomplishments which result from the performance of the federal award; or
- (6) Payments of principal and interest on loans made with federal assistance.

Interest earned on advances of federal assistance is NOT program income. Except as otherwise provided in federal statutes, regulations, or the terms and conditions of the federal award, program income does not include rebates, credits, discounts, taxes, special assessments, levies, and fines raised by a recipient and subrecipient, and interest earned on any of them.

**Exclusions**

Proceeds from the sale of real property or equipment are not program income. Farebox revenues are also not considered program income.

**Use of Program Income**

The Recipient may retain program income for other capital or operating public transportation expenses. If the subrecipient chooses not to use program income for current or future FTA grants or for other public transportation purposes, then the amount of program income used for non-public transportation-related purposes must be deducted from the total allowable costs to determine the net allowable costs.

Under the provisions of 2 CFR § 200.307(e)(3), FTA will permit the use of program income for the non-federal share of a grant award, but only for a future award; program income may not be used as match for the grant from which the program income was earned.

**Authority**

FTA Circular 5010.1E  
 2 CFR § 200  
 2 CFR § 1201

**Applicability**

Any subrecipient that expends \$750,000 or more during the subrecipient's fiscal year in federal awards from all sources (not just FTA awards) must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR § 200.500.

**Auditee  
Responsibilities**

Any NCDOT subrecipient that meets the applicability standards defined above must:

- (1) Procure or otherwise arrange for the audit required by this part in accordance with §200.509 Auditor selection, and ensure it is properly performed and submitted when due in accordance with §200.512 Report submission.
- (2) Prepare appropriate financial statements, including the schedule of expenditures of federal awards in accordance with §200.510 Financial statements.
- (3) Promptly follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with §200.511 Audit findings follow-up, paragraph (b) and §200.511 Audit findings follow-up, paragraph (c), respectively.
- (4) Provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by this part.

When procuring audit services, the objective is to obtain high-quality audits. In requesting proposals for audit services, the objectives and scope of the audit must be made clear and the subrecipient must request a copy of the audit organization's peer review report which the auditor is required to provide under GAGAS.

Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of peer and external quality control reviews, and price. Whenever

possible, the auditee must make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, in procuring audit services.

The auditee must prepare financial statements that reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited. The financial statements must be for the same organizational unit and fiscal year that is chosen to meet the requirements of 2 CFR § 200. However, entity-wide financial statements may also include departments, agencies, and other organizational units that have separate audits

The auditee must also prepare a Schedule of Expenditures of Federal Awards (SEFA) for the period covered by the auditee's financial statements which must include the total federal awards expended as determined in accordance with 2 CFR § 200.502.

**Audit Findings  
Follow-Up**

The auditee is responsible for follow-up and corrective action on all audit findings. As part of this responsibility, the auditee must prepare a summary schedule of prior audit findings. The auditee must also prepare a corrective action plan for current year audit findings. The summary schedule of prior audit findings and the corrective action plan must include the reference numbers the auditor assigns to audit findings. Since the summary schedule may include audit findings from multiple years, it must include the fiscal year in which the finding initially occurred.

**Audit Report  
Submission**

Annual audits of the subrecipients will be submitted to IMD for review. Some auditees may also be subject to audit submission requirements of the Local Government Commission.

**Report Schedule**

The audit must be completed and the data collection form and report package required by the Federal Audit Clearinghouse must be submitted within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period (whichever is sooner). If the due date falls on a Saturday, Sunday, or federal holiday, the reporting package is due the next business day.

**Restrictions**

An auditor who prepares the subrecipient's indirect cost proposal or cost allocation plan may not also be selected to perform the audit required by this part when the indirect costs recovered by the auditee during the prior year exceeded \$1 million. This restriction applies to the base year used in the preparation of the indirect cost proposal or cost allocation plan and any subsequent years in which the resulting indirect cost agreement or cost allocation plan is used to recover costs.

**Authority**

2 CFR § 200

<b>Applicability</b>	All recipients of financial assistance, both federal and state, from IMD.
<b>Final Invoicing</b>	<p>Subrecipients will initiate and show reasonable progress throughout the period of performance and close their grants in a timely manner per their agreement.</p> <p>The subrecipient must submit the following within 30-days after the contract end date:</p> <ol style="list-style-type: none"><li>(1) A claim/invoice and documentation for remaining eligible project expenses</li><li>(2) Copies of reports or documents produced because of the contract</li><li>(3) Other reports as required as a condition of the contract</li></ol>
<b>IMD Initiation of Award Close-Out</b>	<p>IMD has the right to unilaterally initiate contract close-out following an initial written notice if any of the following occur:</p> <ol style="list-style-type: none"><li>(1) Sixty (60) days have passed since the contract expiration date and/or the subrecipient has submitted a reimbursement request within this sixty-day period that has been designated as the Final Invoice for the contract in EBS;</li><li>(2) The subrecipient has misused funds or failed to make appropriate use of project property; or</li><li>(3) The grant is inactive.</li></ol>
<b>Record Retention</b>	Financial records, supporting documents, statistical records, and all other subrecipient records pertinent to a federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the federal awarding agency or pass-through entity in the case of a subrecipient. federal awarding agencies and pass-

through entities must not impose any other record retention requirements upon non-federal entities. The only exceptions are the following:

- (1) If any litigation, claim, or audit is started before the expiration of the three-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action is taken.
- (2) When the subrecipient is notified in writing by the federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- (3) Records for real property and equipment acquired with federal funds must be retained for 3 years after final disposition.

**Authority**

2 CFR § 200  
FTA Circular 9040.1G  
FTA Circular 9070.1G  
FTA Circular 5100.1  
FTA Circular 5010.1E



**Applicability**

All recipients of federal financial assistance from IMD.

**General Requirements**

Subrecipients must use their own documented procurement procedures which reflect applicable federal, state, and local laws and regulations, provided that the procurements conform to applicable federal law and the standards identified in 2 CFR § 200.318 - § 200.326.

Subrecipients must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

IMD maintains checklists that may be used to guide subrecipients through the procurement process and to ensure compliance with all the procurement procedures and requirements.

Prior approval by IMD is required for all purchases over \$10,000.

**Standards of Conduct**

The subrecipient must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the subrecipient must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, subrecipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the subrecipient.

**Written Procurement Procedures**

NCDOT requires all subrecipients to have written procurement policies that reflect the required elements of applicable state and local purchasing regulations. These policies must also address all federal requirements as addressed in FTA Circular 4220.1F and 2 CFR § 200.

When a provision in 2 CFR § 200 conflicts with any element of FTA Circular 4220.1F, the provision in 2 CFR § 200 shall prevail.

These procedures must ensure that all solicitations:

- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met
- (2) by offers must be clearly stated; and
- (3) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

**Competition**

All procurement transactions must be conducted in a manner providing full and open competition consistent with FTA standards.

To ensure objective contractor performance and eliminate an unfair competitive advantage, subrecipients must ensure that no organizational conflicts of interest arise in their procurement activities. This means that when a subrecipient uses contractors to develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements.

Other situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

**Methods of Procurement**

Recent updates to 2 CFR §200 grouped procurement actions into three categories:

- (1) Informal
  - a. micro-purchase
  - b. small purchase
- (2) formal
  - a. sealed bids (IFBs)
  - b. proposals (RFPs)
  - c. qualifications (RFQs)
- (3) Non-Competitive
  - a. sole source

Current federal thresholds enable purchases under \$10,000 to be conducted using micro-purchase methods. Procurements over \$10,000, but under \$250,000, may be conducted using small purchase procedures. Procurements over \$250,000, or those for architectural/engineering services, must follow formal methods.

North Carolina General Statutes (NCGS) will differ from current federal thresholds. When the federal standard is lower than the NCGS standards, subrecipients must adhere to the federal threshold.

**Cost and Price Analysis**

The subrecipient must perform a cost or price analysis in connection with every procurement action above the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is

dependent on the facts surrounding the particular procurement situation, but as a starting point, the subrecipient must make independent estimates (ICE) before receiving bids or proposals.

**Inclusion of Required Federal Clauses**

All subrecipient contracts must contain the applicable provisions described in Appendix II to 2 CFR § 200, "Contract Provisions for non-Federal Entity Contracts Under Federal Awards." These provisions include:

- (1) Administrative, Contractual, and Legal Remedies for Violations and Breach (over \$250,000)
- (2) Termination for cause and convenience (Over \$10,000)
- (3) Equal Employment Opportunity (all)
- (4) Davis-Bacon Act (all prime construction contracts over \$2,000)
- (5) Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction
- (6) Copeland Anti-Kickback
- (7) Contract Work Hours and Safety Standards (contracts involving the employment of mechanics or laborers over \$100,000)
- (8) Rights to Inventions Made Under a Contract or Agreement
- (9) Clean Air Act (Contracts over \$150,000)
- (10) Energy Policy and Conservation Act
- (11) Debarment and Suspension
- (12) Byrd Anti-Lobbying Amendment (contracts over \$100,000)

FTA has additional provisions that are unique to FTA-funded contracts. Subrecipients should consult Appendix D to FTA Circular 4220.1F for a list of these clauses.

**Award to Responsible Vendors**

Subrecipients must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, a record of past performance, and financial and technical resources.

Federal transit law (49 U.S.C. § 5325) contains more explicit guidance on the requirement to award contracts to contractors possessing the ability, willingness, and integrity to perform successfully under the terms and conditions of the contract.

To designate a prospective contractor “responsible” as required by 49 U.S.C. Section 5325, FTA expects the recipient, at a minimum, to determine and ensure that the prospective contractor satisfies the following criteria described herein. In addition to being otherwise qualified and eligible to receive the contract award under applicable laws and regulations, a responsible contractor must fulfill the following criteria:

- (1) Have a satisfactory record of integrity and business ethics, in compliance with 49 U.S.C. Section 5325(j)(2)(A),
- (2) Be neither debarred nor suspended from federal programs under DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR Parts 180 and 1200, or under the FAR at 48 CFR Chapter 1, Part 9.4,
- (3) Be in compliance with the Common Grant Rules’ affirmative action and FTA’s Disadvantaged Business Enterprise requirements,
- (4) Be in compliance with the public policies of the federal government, as required by 49 U.S.C. Section 5325(j)(2)(B),
- (5) Have the necessary organization, experience, accounting, operational controls, and technical skills, or the ability to obtain them, in compliance with 49 U.S.C. Section 5325(j)(2)(D),
- (6) Be in compliance with applicable licensing and tax laws and regulations,
- (7) Have, or can obtain, sufficient financial resources to perform the contract, as required by 49 U.S.C. Section 5325(j)(2)(D),
- (8) Have, or can obtain, the necessary production, construction, and technical equipment and facilities,
- (9) Be able to comply with the required delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments, and
- (10) Be able to provide:
  - a. A satisfactory current performance record, and
  - b. A satisfactory past performance record in view of its records of long-time performance or performance with a predecessor entity, including:
    - i. Sufficient resources
    - ii. Adequate past experience
    - iii. Past deficiencies that are not the fault of the bidder

**Written Procurement History** Subrecipients must maintain records sufficient to detail the history of procurement. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

**Protests and Disputes** The subrecipient alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the subrecipient of any contractual responsibilities under its contracts. NCDOT will not substitute its judgment for that of the subrecipient unless the matter is primarily a federal concern. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

**Special Considerations for Vehicle Procurements – State Purchasing Contracts** Each June and July IMD will work with the vehicle replacement plan, vehicle utilization data, and the Statewide Transit Asset Management Plan to determine the vehicles that will be eligible for replacement in the upcoming capital call for projects.

The subrecipient may participate in the next annual procurement process to replace the vehicle as planned if funding for a replacement vehicle has already been approved for a totaled vehicle. The vehicle must meet useful life standards before it is eligible for replacement. Please see the useful life standards for each vehicle classification.

Subrecipients will receive order forms and timelines electronically from the IMD Procurement Office.

IMD will determine a deadline for ordering vehicles that will take into account market conditions for vehicles typically acquired under state purchasing control. IMD's goal is to deliver vehicles before the end of the state fiscal year; however, the achievement of this goal, given the instability in both mass-produced and specialty vehicles markets, is aspirational, not a finite standard. IMD may, therefore, set variable deadlines in support of this goal.

No orders will be accepted after the IMD established deadline and vehicle funding will be forfeited. Vehicles will be ordered directly from the vendor if the subrecipient is procuring the vehicle off state contract. Systems may also complete a federally compliant local procurement.

The Board of Transportation approved amount for purchase of a vehicle is the limit of what can be expended. No additional funds can be requested. Ordering a vehicle other than the funded vehicle type must be approved by IMD and requires a budget amendment.

The subrecipient may choose to have the lettering on the vehicle added by the state's vendor or added to the vehicle by a local business. Restrictions may apply.

The vehicle must be titled to the grant recipient. IMD will be the first lienholder. The title is released when a replacement vehicle is received.

Grant recipients must secure local matching funds before they request vehicle funding. Failure to order a funded vehicle will result in increased scrutiny of future requests and may result in the loss/decrease of future funding.

Whether the subrecipient uses the advanced payment method, or the subrecipient incurs the cost prior to requesting reimbursement, vendors must be paid within 30 days of acceptance of the vehicle. The vendor may request the local match be paid at the time of order.

New vehicles must be added to the Enterprise Asset Management (EAM) platform within 24 hours of receipt and included in the subrecipient's Asset Management Plan and Vehicle Utilization Data (VUD).

A separate file should be maintained for each vehicle purchased by the subrecipient. Record of the application and approval of funds, procurement, warranty information, inspections and maintenance, and disposition must be on file.

**Pre- and Post Delivery Requirements** A subrecipient purchasing revenue service rolling stock with federal funds must conduct pre-award and post-delivery audits verifying compliance with Buy America provisions, purchaser's requirements, resident inspector

requirements, and FMVSS. The recipient is required to keep records, including pre-award and post-delivery certifications, which show that the regulations have been followed. The audits require the recipient to complete two certifications (Buy America and Purchaser's Requirements) at the pre-award stage and three certifications (Buy America, Purchaser's Requirements, and FMVSS) at the post-delivery stage. The regulations do not specifically note that these five certifications must be signed in order for the recipient to certify compliance with Buy America, however, the certifications must indicate that requirements have been reviewed and met.

Although procurements of rolling stock of \$150,000 or less are not subject to Buy America requirements, these contracts still must comply with the pre-award and post-delivery purchaser's requirements and FMVSS audits required by 49 CFR Part 663.

Required post-delivery certification includes disclosure by the manufacturer of the final assembly location; a listing of the component and subcomponent parts, the cost (actual or percent of total) of such components and subcomponents and the country of origin; a description of final assembly activities; and the cost of final assembly. Final assembly costs are not to be included when calculating the percent of domestic content of the vehicle.

### **Bus Testing**

The subrecipient must have in its possession a copy of the Altoona Bus Testing Report before final acceptance of the first vehicle. Testing applies to buses and modified vans used in transit service, including, but not limited to, new bus and van models using alternative fuels such as methanol, ethanol, compressed natural gas (CNG), hydrogen, and electricity (if stored and/or generated onboard the vehicle).

For bus models tested after October 31, 2016, the subrecipient must determine if the bus model received a passing score.

Bus testing is not required for unmodified mass-produced vans (provided they are only offered to FTA recipients in the 4-year/100,000-mile service life category). Unmodified mass-produced vans are vehicles manufactured as complete, fully assembled vehicles as provided by the original equipment manufacturer (OEM). This category includes vans with raised roofs or wheelchair lifts or ramps that are installed by the OEM or by someone other than the OEM, provided that the installation of these components is



completed in strict conformance with the OEM modification guidelines.

**Non-Federally-  
Assisted  
Procurements**

Subrecipients should follow state and local policy and procedures when there are no federal funds involved. There are state requirements that are necessary for certain types of procurements.

**Authority**

2 CFR § 200  
49 CFR § 663  
49 CFR § 665  
FTA Circular 4220.1F  
NCGS § 143-129 Procedure for Letting of Public Contracts

<b>Applicability</b>	Any subrecipient that has used federal funds to acquire tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the subrecipient for financial statement purposes, or \$5,000.
<b>Title</b>	Title to tangible personal property or real property shall rest in the name of the subrecipient. IMD reserves the right to hold the first lien on the asset to ensure that asset management requirements are met by the subrecipient.
<b>Use</b>	<p>Except as otherwise provided by FTA or NCDOT, real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the subrecipient must not dispose of or encumber its title or other interests.</p> <p>Equipment must be used by the subrecipient in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the federal award, and the subrecipient must not encumber the property without prior approval of the federal awarding agency. When no longer needed for the original program or project, the equipment may be used in other activities supported by FTA/NCDOT.</p> <p>Subrecipients are not allowed to use service vehicles for administrative purposes. A subrecipient can designate one (1) retired service vehicle that has been approved for replacement as an administrative vehicle.</p>
<b>Management Requirements</b>	Procedures for managing equipment, whether acquired in whole or in part under a federal award, until disposition takes place will, as a minimum, meet the following requirements:

- (1) Property records must be maintained that include
  - a. a description of the property
  - b. a serial number or other identification number
  - c. the source of funding for the property (including the FAIN)
  - d. name of the entity that holds title
  - e. the acquisition date
  - f. cost of the property
  - g. percentage of federal participation in the project costs for the federal award under which the property was acquired
  - h. the location of the property
  - i. current use of the property or equipment
  - j. condition of the property
  - k. 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 must be investigated.
- (4) Adequate maintenance procedures must be developed to keep the property in good condition.
- (5) If the subrecipient is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

**Asset Maintenance Plans**

Recipients must keep federally funded vehicles, equipment, and facilities in good operating condition. Recipients must keep Americans with Disabilities Act (ADA) accessibility features on all vehicles, equipment, and facilities in good operating order.

Proper maintenance of assets is key to protecting the FTA investment and prolonging the useful life of the asset. All recipients must have a written maintenance plan(s) for FTA-funded assets. These plans must describe a system of periodic inspections and preventive maintenance to be performed at certain defined intervals. For FTA-funded assets, the written maintenance plans should identify the goals and objectives of a maintenance program, which may include, for example, vehicle life, frequency of road calls, and maintenance costs compared to total operating costs and establish how the recipient will meet such goals and objectives. Plans should be updated with

the purchase of new rolling stock to account for new technology and/or new manufacturer's recommended maintenance intervals and incorporate actions to maintain each vehicle type and model on a specific cycle. These actions will help ensure proper care and maximize vehicle longevity and enhance passenger safety.

Subrecipients are responsible for preparing written vehicle maintenance plans. The plan should recognize each type of vehicle in the fleet and establish a schedule of preventive maintenance actions to occur at planned intervals, measured by time or miles, whichever is recommended by the original equipment manufacturer (OEM). IMD will provide subrecipients some discretion in determining the appropriate intervals for preventative maintenance inspections to accommodate such things as specific manufacturer recommendations, vehicle age, unique site, operating conditions, etc. IMD expects recipients to follow their program for preventative maintenance but understands that circumstances may prevent inspections from being completed exactly at the interval specified. To account for this, IMD follows FTA protocols and allows a 10 percent deviation from the scheduled interval as being considered on time; IMD reserves the right to audit maintenance histories to determine if fewer than 80 percent of the inspections for any mode or operation occurred on time.

If the subrecipient owns or has improved real property or acquired real property, either in whole or in part, with federal or state financial assistance, IMD requires that the subrecipient prepare a facility maintenance plan. This plan should outline a schedule of inspections and routine maintenance for all critical mechanical and structural components of the facility.

IMD's Safety, Education, and Compliance Unit reserves the right, in the course of a System Management System (SMS) audits, to evaluate the fleet maintenance plan ensuring that all vehicles and all NCDOT sponsored equipment are being maintained according to manufacturer's guidelines.

Record of the maintenance history of every state or federally funded vehicle shall be kept in IMD's Enterprise Asset Management (EAM) maintenance software that is provided to all subrecipients. A hard copy of work orders, invoices, and software reports will be maintained in the transit office with a separate file for each vehicle.

**Maintenance of Accessibility Features**

The US DOT ADA regulations require all vehicle and facility accessibility features, such as wheelchair lifts and elevators in the recipient’s facilities, be maintained and operational. The accessibility features must be promptly repaired if they are damaged or out of order. When the equipment is not working, the subrecipient must take reasonable steps to accommodate persons with disabilities who would otherwise use it. The ADA maintenance elements may be incorporated into the regular maintenance program or addressed separately with specific checklists. At a minimum, the subrecipient must show that accessibility features are checked regularly for proper operation and receive periodic maintenance.

Note these requirements apply to both FTA and non-FTA-funded vehicles and facilities.

**Special Requirements for Vehicle Assets**

IMD requires that subrecipients require drivers to complete a pre- and post-inspection of vehicles being operated each day. Inspection forms must be signed by the driver performing the inspection.

**Warranty Claims**

For vehicles under warranty, the subrecipient typically must perform a series of preventive maintenance actions if the warranty is to remain valid. If the recipient either does not perform these required maintenance routines or performs them at greater intervals than the manufacturer’s maximum intervals, the recipient runs the risk of invalidating vehicle warranty provisions.

IMD requires that the subrecipient have a system for identifying warranty claims, recording claims, and enforcing claims against the manufacturers. An aggressive warranty recovery program ensures that the cost of defects is borne properly by the equipment manufacturer and not the subrecipient, NCDOT, and FTA. There should be clear procedures to identify warranty repairs, record the warranty claim, submit the claim to the manufacturer, and follow up on unpaid claims.

**Insurance**

The liability insurance limits on vehicles operated by subrecipients will be determined by IMD. The Rules and Regulations of the North Carolina Utilities Commission and any applicable federal regulations will be considered. These limits exist for the protection of the public and motor carriers of passengers.

IMD requires the following minimum levels of liability coverage:

- (1) Vehicles 16 passengers or more - \$5,000,000 per occurrence
- (2) Vehicles 15 passengers or less - \$1,500,000 per occurrence

Consistent with the requirements of 2 CFR § 200.310, IMD requires all subrecipients to maintain collision insurance on vehicles at least equal to the federal interest in the vehicle at current fair market values.

Subrecipients must annually document compliance with this section by providing a certificate of insurance coverage. A vehicle schedule listing the vehicles the subrecipient has covered with liability and collision insurance must also be submitted.

IMD will permit subrecipients to meet these requirements through a self-insurance fund with the prior approval of IMD.

### **Leasing of Assets**

Leasing of vehicle assets may be permitted with the prior approval of IMD. IMD has established the following guidelines for vehicle leasing:

- (1) Vehicles cannot be leased or loaned to human service agencies, nonprofit organizations, public bodies, or school systems.
- (2) It is allowable for a subrecipient to lease vehicles to another subrecipient upon approval of IMD.
- (3) It is allowable for vehicles to be leased to a third-party operator or the transportation management company that operates the project services under contract with the subrecipient.
- (4) The lease must include how the maintenance of the vehicles will be monitored by the subrecipient, and who will be responsible for insurance, drivers, emergencies, back-ups, etc. IMD prefers that subrecipients use the vehicle lease agreement

### **Transfer of Assets**

The transfer of an asset with remaining useful life may be permitted with the prior approval of IMD. IMD has established the following guidance for the transfer of assets:

- (1) The transfer of vehicles to another entity that is an FTA-funded subrecipient with the technical capacity to meet all FTA and NCDOT requirements.
- (2) IMD has determined that the titleholder is not utilizing a vehicle(s) fully or the subrecipient's fleet exceeds the spare ratio.

The transfer of any vehicle to another subrecipient shall comply with all federal regulations.

**Useful Life**

NCDOT will not consider the replacement of rolling stock until a vehicle has exceeded the defined useful life threshold. As vehicle technologies continue to evolve, please consult with IMD for current useful life requirements for each class and type of vehicle considered for replacement.

**Disposition**

Subrecipients will expedite the utilization of new vehicles and dispose of replaced vehicles within 60-days of putting the new vehicles in service. Disposing of a vehicle means it is removed from the fleet inventory, surpluses, transferred, sold, or donated.

A vehicle approved for replacement in a grant application may be disposed of after the new vehicle order has been placed and before receipt of the new vehicle upon approval by IMD. Titles will be released to the subrecipient by IMD after the inspection form for the new vehicle and the disposition form for the replaced vehicle have been submitted to IMD.

Subrecipients will dispose of replaced vehicles using one of the following options.

- (1) Advertising for sealed bids
- (2) Local public auction
- (3) State surplus
- (4) Electronic auction
- (5) Transfer it to another agency for a purpose that does not provide human service transportation (IMD approval required).
- (6) Transfer to system owner for use as an administrative vehicle ONLY (non-transfer or non-fleet use). IMD permits each subrecipient one administrative vehicle only.

**Disposition Proceeds** Federal regulations at 2 CFR § 200.313(e)(1) stipulate that if the equipment has exceeded its useful life and the net proceeds from the sale of the equipment is less than \$5,000, proceeds may be retained by the subrecipient and used for transit purposes only.

FTA is entitled to its share of the remaining federal interest upon disposition of federally assisted property before the end of its useful life or for a value greater than \$5,000 after the useful life has been met. agency. NCDOT, acting on behalf of FTA, will generally permit such proceeds to be used in the acquisition of a replacement vehicle.

IMD requires the transit system, no later than 90-days after delivery/acceptance of replacement vehicle(s), to submit a copy of the disposal receipt to IMD to confirm that the disposal process has been completed for the replaced vehicle(s). The receipt is to be downloaded into the EBS Dropbox identified as "Vehicle Disposition Receipt."

**Casualty Loss and Settlements** In the event of a casualty loss of an FTA-funded vehicle, an NC Accident Report (DMV-349) or NC Incident Report and correspondence from the insurance company indicating the settlement amount must be submitted to IMD within 10 days of the incident.

If a vehicle is deemed a total loss due to an incident. IMD's casualty loss criteria will determine how the federal and state interest in the vehicle will be handled and how a replacement may be procured.

Whether the titleholder has met or exceeded the casualty loss criteria will determine the options available to the titleholder for the settlement proceeds and replacement of the vehicle.

**Authority** 2 CFR § 200  
FTA Circular 5010.1E



**Applicability**

All recipients of federal financial assistance under 49 U.S.C. Chapter 53, including:

- Section 5307
- Section 5310
- Section 5311
- Section 5339

**Overview**

Every agency must develop a transit asset management (TAM) plan if it owns, operates, or manages capital assets used to provide public transportation and receives federal financial assistance under 49 U.S.C. Chapter 53 as a recipient or subrecipient. Each transit provider must designate an Accountable Executive (49 CFR 625.5) to ensure appropriate resources for implementing the agency's TAM plan and the Transit Agency Safety Plan.

Federal regulations at 49 CFR § 625 classify all covered entities as either Tier I or Tier II agencies.

Tier I provider means a recipient that owns, operates, or manages either (1) one hundred and one (101) or more vehicles in revenue service during peak regular service across all fixed route modes or in any one non-fixed route mode, or (2) rail transit.

Tier II provider means a recipient that owns, operates, or manages (1) one hundred (100) or fewer vehicles in revenue service during peak regular service across all non-rail fixed route modes or in any one non-fixed route mode; (2) a subrecipient under the 5311 Rural Area Formula Program; or (3) any American Indian tribe

**Requirements**

Each tier I provider must develop and carry out a TAM plan that includes each element described in 49 CFR § 625.25(b).

Tier II entities must meet these same requirements or may elect to participate in a Group TAM Plan. IMD has served as the sponsor for a Statewide TAM Plan.

**Plan Elements**

TAM plans must include:

- (1) An inventory of the number and type of capital assets. The inventory must include all capital assets that a provider owns, except equipment with an acquisition value under \$50,000 that is not a service vehicle. An inventory also must include third-party owned or jointly procured exclusive-use maintenance facilities, passenger station facilities, administrative facilities, rolling stock, and guideway infrastructure used by a provider in the provision of public transportation. The asset inventory must be organized at a level of detail commensurate with the level of detail in the provider's program of capital projects;
- (2) A condition assessment of those inventoried assets for which a provider has direct capital responsibility. A condition assessment must generate
- (3) information in a level of detail sufficient to monitor and predict the performance of the assets and to inform the investment prioritization;
- (3) A description of analytical processes or decision-support tools that a provider uses to estimate capital investment needs over time and develop its investment prioritization;
- (4) A provider's project-based prioritization of investments, developed in accordance with § 625.33 of this part;
- (5) A provider's TAM and SGR policy;
- (6) A provider's TAM plan implementation strategy;
- (7) A description of key TAM activities that a provider intends to engage in over the TAM plan horizon period;
- (8) A summary or list of the resources, including personnel, that a provider needs to develop and carry out the TAM plan; and
- (9) An outline of how a provider will monitor, update, and evaluate, as needed, its TAM plan and related business practices, to ensure the continuous improvement of its TAM practices.

**Authority**

49 CFR § 625

**Applicability**

All programs and all subrecipients of FTA funds

**Basic Principle**

Federal grants management principles require that NCDOT, as the recipient of FTA funds, provide adequate oversight of its subrecipients. This responsibility includes ensuring that the subrecipient is complying with federal requirements. NCDOT maintains a resource library where the current version of key documents used in the oversight process can be found:

<https://connect.ncdot.gov/business/Transit/Pages/Transit-Doing-Business.aspx>

**IMD Responsibilities**

IMD uses a combination of management methods to ensure adequate oversight of subrecipients; these methods include site oversight reviews (conducted by IMD representative and/or contractor), periodic site visits by the assigned IMD representative and/or contractor, and submission of specialty reports, as appropriate.

IMD's Safety, Education and Compliance section is the primary Division unit responsible for oversight and ensuring compliance.

Transit systems utilizing federal or state funds may be subject to the following oversight reviews:

- (1) Proficiency Review (PR): This review is intended to ensure that 5311, and Section 5310 subrecipients are adhering to all federal and state statutes, program requirements, and policies when administering federal and/or state-funded transit projects. Reviews are done on a periodic schedule.
- (2) Safety & Security Plan (SSP) Reviews: This review is intended to ensure that subrecipients are operating in compliance with the FTA safety regulations and policies affecting transit services. The on-site review includes the inspection of a sampling of vehicles, vehicle and lift maintenance records, accident/incident records, driver training records, and ride-along with drivers. The on-site review will be preceded by a

desk review of the subrecipient's Safety and Security Plan and SSP questionnaire.

- (3) Drug & Alcohol Reviews: This review is intended to ensure that subrecipients are implementing a compliant Drug and Alcohol Program. There will be a review of testing methods and recordkeeping and policy enforcement.

An IMD representative and/or contractor will conduct the review; NCDOT reserves the right to review as a component of the Proficiency Review or Safety and Security Plan Review. Regardless of the review type chosen by NCDOT, the review will be designed to observe the business practices and operations of the subrecipients, monitor their ongoing compliance with regulations, and provide technical assistance aimed at improving performance.

The Safety, Education, and Compliance Unit will run the quarterly vehicle and lift preventive maintenance reports from Enterprise Asset Management (EAM) to determine whether a subrecipient is achieving the standard of 80% or above compliance with preventive maintenance requirements.

**Public Health  
Emergency**

IMD reserves the right to suspend all site visits scheduled and use alternative means to ensure oversight of subrecipients during the Public Health Emergency precipitated by the COVID-19 pandemic or any other emergency scenario.

IMD further reserves the right to conduct virtual site visits in place of on-site visits to its subrecipients.

**Subrecipient  
Responsibilities**

Subrecipients are required to maintain the financial capacity to administer a project throughout its duration. Financial reviews may be conducted by NCDOT without notice. Potential triggers for review include but are not limited to delinquent reimbursement requests, inadequate documentation of expenditures, excessive revisions, unsatisfactory progress, delinquent reports, audit findings, and/or the repeated failure to procure funded capital items.

*Real Property Reporting:* Subrecipients must maintain adequate records on the status of real property in which the FTA retains an interest. NCDOT requires that subrecipients maintain a real property inventory on file for review to satisfy the requirements of 2 CFR § 200.329, which requires recipients to submit reports on an annual basis for real property in which the Federal Government retains an interest.

The annual real property inventory report must include:

- (1) Parcel number
- (2) Property address/location
- (3) Tax ID
- (4) Description of real property
- (5) Date of property acquisition
- (6) Minimum useful life of the improvement
- (7) Real property ownership type(s)
- (8) Size: acreage, square or linear units
- (9) Real property cost (acquisition, relocation, renovation, railroad easement cost/period of the easement)
- (10) FTA share percentage of property cost
- (11) FTA award number
- (12) Current use of the property
- (13) Disposition status
- (14) Appraised fair market value
- (15) Appraisal date
- (16) Net sales proceeds
- (17) Federal interest
- (18) Date of property disposition

**Authority**

2 CFR § 200.329  
2 CFR § 200.331  
FTA Circular 5010.1E § 2i(5)  
FTA Circular 9040.1G, Chapter II, § 3a(9) – (10)

**Overview**

The subrecipient must agree to comply, as a condition of a grant award, with all applicable civil rights statutes and implementing regulations. IMD will not award any federal grant awards to any entity not fully compliant with the following requirements:

**Flow-Down**

Provisions in this section of the SMP typically flow down to any lower tier relationships entered into by the subrecipient, including lower tier subrecipients and subcontractors.

**Authority**

FTA Circular 9040.1G  
FTA Circular 9070.1G  
FTA Circular 5100.1

<b>Applicability</b>	All programs and all subrecipients of FTA funds
<b>Basic Requirement</b>	Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives federal funds or other federal financial assistance. Programs that receive federal funds cannot distinguish among individuals on the basis of race, color, or national origin, either directly or indirectly, in the types, quantity, quality or timeliness of program services, aids, or benefits that they provide or the manner in which they provide them. This prohibition applies to intentional discrimination as well as to procedures, criteria, or methods of administration that appear neutral but have a discriminatory effect on individuals because of their race, color, or national origin.
<b>First Time Applicants</b>	<p>Subrecipients applying for FTA funding for the first time shall provide information regarding their Title VI compliance history if they have previously received funding from another federal agency. This shall include a copy of any Title VI compliance review activities conducted in the previous three years. The summary shall include:</p> <ol style="list-style-type: none"> <li>(1) The purpose or reason for the review.</li> <li>(2) The name of the agency or organization that performed the review.</li> <li>(3) A summary of the findings and recommendations of the review.</li> <li>(4) A report on the status and/or disposition of such findings and recommendations. This information shall be relevant to the organizational entity submitting the application, not necessarily the larger agency or department of which the entity is a part.</li> </ol>
<b>Requirements to Submit a Title VI Program</b>	FTA requires that all recipients and subrecipients document their compliance with DOT's Title VI regulations by submitting a Title VI Program to their FTA regional civil rights officer (recipients) or the state DOT (subrecipients) once every three years or as otherwise directed by FTA. For all subrecipients, the Title VI Program must be approved by the subrecipient's board of directors

or appropriate governing entity or official(s) responsible for policy decisions prior to submission to FTA.

Subrecipients must submit their Title VI Programs to be reviewed and approved by IMD and the NC DOT Office of Civil Rights. Upon receiving approval of the Plan, which must contain the Title VI Plan Template language, local adoption should take place. Title VI Plans must be updated at least every three (3) years; IMD may provide technical assistance with updating the Plan.

**Elements of a Title VI Program**

Every Title VI Program shall include the following information:

- (1) Notice to the public stating compliance with Title VI and informs the public regarding protections afforded against discrimination
- (2) Instructions for how to file a Title VI complaint and the complaint form
- (3) A list of any public transit-related Title VI investigations, complaints, or lawsuits
- (4) A public participation plan that includes an outreach plan to engage minority and limited English proficient populations
- (5) A copy of the recipient's plan for providing language assistance to persons with limited English proficiency
- (6) Subrecipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar bodies, the membership of which is selected by the recipient, must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees or council
- (7) If the subrecipient has constructed a facility, such as a vehicle storage facility, maintenance facility, operation center, etc., the subrecipient shall include a copy of the Title VI equity analysis conducted during the planning stage with regard to the location of the facility.

In addition to these requirements of the plan, any subrecipient that operates fixed route service has additional elements that must be included in the plan. These entities are responsible for establishing system-wide standards and policies.



**Fixed Route Service Standards and Policies**

All fixed route transit providers shall set service standards and policies for each specific fixed route mode of service they provide. Fixed route modes of service include but are not limited to local bus, express bus, commuter bus, and bus rapid transit. These standards and policies must address how service is distributed across the transit system and must ensure that the manner of the distribution affords users access to these assets.

Service standards must include for each fixed mode operated:

- (1) Vehicle load
- (2) Vehicle headway
- (3) On-time performance
- (4) Service availability

Service policies must include for each fixed mode operated:

- (1) Distribution of transit amenities
- (2) Vehicle assignment

**Authority**

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.  
49 CFR § 1.51.  
49 CFR part 21.  
28 CFR § 42.401 et seq  
FTA Circular 4702.1B

**Applicability**

Any applicant, recipient, subrecipient, or contractor that receives FTA assistance

**Basic Requirement**

Title VII of the Civil Rights Act of 1964 (Title VII), as amended by the Equal Employment Opportunity Act of 1972 and the Civil Rights Act of 1991, prohibits discrimination on the basis of race, color, religion, national origin, or sex in all institutions with 15 or more employees—including state and local governments and labor organizations. (42 U.S.C. §§ 2000e et seq.) Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA) applies to private employers and state and local government employers with at least 15 employees, regardless of whether they receive federal financial assistance. It prohibits covered employers from discriminating on the basis of an applicant's or employee's genetic information (such as the results of genetic tests or family medical history), generally prohibits employers from acquiring genetic information of applicants and employees, and requires employers to keep genetic information confidential, with very limited exceptions. The U.S. Equal Employment Opportunity Commission (EEOC) is the enforcement authority for Title VII and provides the official interpretation of employment laws that prohibit discrimination as outlined in 29 CFR Part 1600. EEOC enforces not only Title VII and GINA, but also the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, Title I of the Americans with Disabilities Act of 1990, Sections 501 and 505 of the Rehabilitation Act of 1973. FTA defers to the most current regulations and guidance issued by EEOC when making complaints and compliance determinations. EEOC regulations and guidance are incorporated by reference.

**Requirement to Prepare an EEO Program**

Any applicant, recipient, subrecipient, or contractor that:

- (1) Employs 50 or more transit-related employees; and
- (2) Requests or receives capital and operating assistance in excess of \$1 million in the previous federal fiscal year or requests or receives planning assistance in excess of \$250,000 in the previous federal fiscal year must

prepare an EEO program. Entities that employ between 50-99 transit employees may prepare an abbreviated program.

FTA applicants, recipients, subrecipients, and contractors who do not meet the EEO Program threshold above are not required to submit an EEO Program to FTA but are still required to comply with all Equal Employment Opportunity statutes and regulations.

EEO Program every four years or as major changes occur in the workforce or employment conditions, whichever comes first.

Subrecipients subject to this requirement must submit their EEO Programs to be reviewed and approved by IMD and the NC DOT Office of Civil Rights.

**Elements of an EEO Program**

Every EEO Program shall include the following information:

- (1) Statement of Policy
- (2) Plan for dissemination both internally and externally
- (3) Designation of appropriate personnel responsible for carrying out the EEO Program, including the designation of an EEO Officer
- (4) Utilization analysis
- (5) Goals and timetables to correct identified areas of underutilization or concentration
- (6) Assessment of an agency's employment practices
- (7) Plan for monitoring and reporting on the EEO Program

If a subrecipient is required to prepare an abbreviated plan, items #4 and #5 may be omitted from the program.

**Authority**

Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e);  
Equal Pay Act of 1963, as amended (29 U.S.C. § 206(d))  
Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. § 621 et seq.)  
Title II of the Genetic Information Nondiscrimination Act of 2008, as amended (42 U.S.C. § 2000ff)  
49 U.S.C. § 5332(b) of the Federal Transit Act  
U.S. Department of Transportation (DOT) EEO implementing regulations (49 CFR Part 21)

**Applicability**

Recipients of FTA financial assistance

**Basic Requirement**

Recipients must comply with 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US Department of Transportation (US DOT)-assisted contracts. Recipients also must create a level playing field on which DBEs can compete fairly for US DOT-assisted contracts.

Recipients must never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by this part on the basis of race, color, sex, or national origin.

In administering the recipient's DBE program, the agency must not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, sex, or national origin.

**Required Assurance**

Each contract the subrecipient signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

*The contractor, subrecipient, or subcontractor shall not discriminate on the basis of 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 recipient deems appropriate, which may include, but is not limited to:*

- (1) Withholding monthly progress payments;*
- (2) Assessing sanctions;*
- (3) Liquidated damages; and/or*

(4) *Disqualifying the contractor from future bidding as non-responsible*

**Requirements to Prepare a DBE Program**

FTA recipients receiving planning, capital, and/or operating assistance that will award prime contracts (excluding transit vehicle purchases) the cumulative total value of which exceeds \$250,000 in FTA funds in a federal fiscal year must prepare a DBE program.

Required elements of a DBE program include:

- (1) Policy statement
- (2) Designation of a DBE Liaison Officer (DBELO)
- (3) Reasonable efforts to use financial institutions owned and controlled by socially and economically disadvantaged individuals
- (4) Prompt payment mechanisms
- (5) DBE directory
- (6) Measures to address overconcentration of DBEs
- (7) Mentor-protégé program
- (8) Monitoring performance
- (9) Fostering small business participation

DBE requirements apply to recipients, e.g., NCDOT. In preparing its DBE program and in establishing goals, NCDOT takes into account the third-party contracting activity of its subrecipients. Subrecipients are required to report to IMD, on a semi-annual basis, expenditures with certified DBE firms. NCDOT may impose DBE requirements on subrecipients or specific subrecipient projects to meet NCDOT DBE goals.

**DBE Goals**

For recipients that reasonably anticipate awarding (excluding transit vehicle purchases) more than \$250,000 in FTA funds in prime contracts in a federal fiscal year, overall three-year goals must be submitted to FTA for review by August 1st preceding the federal fiscal year in which the goal submission is due. The submittal must include a description of the methodology used to establish the goal and other items detailed in 49 CFR 26.45.

The overall goal must be based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on the recipient's DOT-assisted contracts. The goal must reflect the determination of the level of DBE participation that agency would expect absent the effects of discrimination.

**TVM Requirements**

Transit vehicle manufacturer (TVM) means any manufacturer whose primary business purpose is to manufacture vehicles specifically built for public mass transportation. Such vehicles include but are not limited to: buses, rail cars, trolleys, ferries, and vehicles manufactured specifically for paratransit purposes. Producers of vehicles that receive post-production alterations or retrofitting to be used for public transportation purposes (e.g., so-called cutaway vehicles, vans customized for service to people with disabilities) are also considered transit vehicle manufacturers. Businesses that manufacture, mass-produce, or distribute vehicles solely for personal use and sale “off the lot” are not considered transit vehicle manufacturers.

For transit vehicle awards made on or after November 3, 2014, FTA recipients are required to submit, within 30 days of making an award, the name of the successful bidder for transit vehicles and the total dollar value of the contract. This notification should be submitted by using the online Transit Vehicle Award Reporting Form located on FTA’s Civil Rights DBE Webpage. The online reporting form was initiated in June 2016.

If the recipient issues a contract for transit vehicles that includes a base order and subsequent options, the recipient is to submit the information for the base number of vehicles and subsequently for each order of vehicle options awarded. The recipient should be submitting this information for itself and for subrecipients that are procuring transit vehicles with funds that it passes through to them. The recipient is responsible for having a mechanism in place for maintaining a copy of all awards reported to FTA.

**DBE Reporting**

Each recipient that meets the threshold requiring it to have a DBE program and overall goal is required to submit a Uniform Report of DBE Awards or Commitments and Payments semi-annually in TrAMS. The report addresses the contracting opportunities of the recipient and its subrecipients. Reports are due by June 1 (for the period covering October 1 – March 31) and by December 1 (for the period covering April 1 – September 30). IMD will provide the requisite report forms.

**Authority**

49 CFR § 26

<b>Applicability</b>	All providers of transportation service, whether private or public, and whether or not an entity receives federal financial assistance
<b>Basic Requirement</b>	<p>Titles II and III of the Americans with Disabilities Act of 1990 provide that no entity shall discriminate against an individual with a disability in connection with the provision of transportation service. The law sets forth specific requirements for vehicle and facility accessibility and the provision of service, including complementary paratransit service. Federal regulations at 49 CFR § 37 address:</p> <ol style="list-style-type: none"> <li>(1) Transportation facilities</li> <li>(2) Acquisition of accessible vehicles</li> <li>(3) Paratransit as a complement to fixed route service</li> <li>(4) Provision of service</li> </ol>
<b>Transportation Facilities</b>	New facilities, or alterations to existing facilities, must be constructed to meet the requirements of 49 CFR § 37 and the requirements set forth by the Architectural and Transportation Barriers Compliance Board (Access Board). Compliance with these standards is not required where an entity can demonstrate that it is structurally impracticable to meet the requirements.
<b>Acquisition of Accessible Vehicles</b>	<p>All new bus or rail vehicles purchased or leased for use in fixed-route service by public entities must be accessible. Used bus or rail vehicles purchased or leased for use in fixed-route service by public entities must be accessible, with a good faith efforts exception. Remanufactured vehicles must be accessible to the maximum extent feasible, with an engineering exception.</p> <p>Vehicles used in demand-response service must be accessible unless equivalent service is provided. Equivalency is evaluated based on the following factors:</p>

- (1) Response time
- (2) Fares
- (3) Geographic area of service
- (4) Hours and days of service
- (5) Restrictions or priorities based on trip purpose
- (6) Availability of information and reservations capability
- (7) Any constraints on capacity or service availability

These requirements extend to Vehicles used in fixed-route service operated under contract or other arrangement or relationship

**Provision of Service**

All transit services must meet the minimum service requirements. The transportation service provider must:

- (1) Make stop announcements for fixed-route service at transfer points, major intersections, destination points, intervals along the route to orient passengers, and any stop upon request
- (2) Provide an effective means of route identification when more than one route serves a stop
- (3) Permit service animals to accompany individuals with disabilities
- (4) Ensure that when an individual with a disability needs to sit in a seat or occupy a wheelchair securement location, the public or private entity must ask the following persons to move in order to allow the individual with a disability to occupy the seat or securement location
- (5) Ensure it transports all wheelchairs within the capacities of lifts on system vehicles
- (6) Allow a passenger who uses a lift or ramp to board or disembark from a vehicle at any designated stop, unless the lift or ramp cannot be deployed
- (7) Allow service to individuals using respirators, concentrators, or portable oxygen
- (8) Provide public information in accessible formats (this obligation extends to accessible telecommunications access)
- (9) Make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability or to provide program accessibility to their services
- (10) Ensure personnel are trained to proficiency



**Complementary  
Paratransit**

Each subrecipient operating a fixed route system shall provide paratransit or other special services to individuals with disabilities that are comparable to the level of service provided to individuals without disabilities who use the fixed route system. Complementary paratransit service for ADA paratransit eligible persons shall be origin-to-destination service. Service must also be provided to visitors to the subrecipient's service area for any combination of 21 days during any 365day period.

Additionally, each subrecipient subject to this requirement must also establish an eligibility process to certify that the individuals cannot other use or navigate an accessible fixed route service. Certifications must be conducted within 21 days after receipt of a complete application; presumptive eligibility must be granted if the certification process takes longer than 21 days.

Each subrecipient subject to this requirement must establish an administrative appeal process through which individuals who are denied eligibility can obtain a review of the denial.

Subrecipients, at their option, may establish an administrative process to suspend, for a reasonable period of time, the provision of complementary paratransit service to ADA eligible individuals who establish a pattern or practice of missing scheduled trips. NCDOT limits such suspensions to a maximum of 30 days.

In providing complementary paratransit, the subrecipient must the service criteria in 49 CFR § 37.131(a) – (g).

**Authority**

Americans with Disabilities Act of 1990  
Section 504 of the Rehabilitation Act of 1973, as amended  
49 CFR § 27, 37, 38, and 39  
FTA Circular 4710.1

**Applicability**

In addition to the requirements outlined previously in this State Management Plan, IMD requires that subrecipients comply with other compliance topics.

**Other Compliance Topics**

As a subrecipient of FTA funds, IMD enforces compliance with additional federal requirements, including:

- (1) Charter service
- (2) School bus service
- (3) Drug and alcohol program

**Authority**

49 CFR § 604  
49 CFR § 605  
49 CFR § 655  
49 CFR § 40  
FTA Circular 9040.1G  
FTA Circular 9070.1G  
FTA Circular 5100.1

**Applicability**

Subrecipient of federal financial assistance from FTA

**Basic Requirement**

Subrecipients are prohibited from using FTA-funded equipment and facilities to provide charter service unless the service meets an exception to the regulation.

**Charter Service, Defined**

Charter service is defined as:

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

Demand response transportation, by definition, does not include service provided in demand response mode.

Service provided for "program purposes" under 49 U.S.C § 5310 and 49 U.S.C. § 5311 is not a charter service.

**Charter Exceptions** In limited circumstances, it may be permissible for a subrecipient to provide charter service if the service conforms to one of the following exceptions to the regulations:

- (1) Government officials on official government business
- (2) Qualified human service organizations
- (3) Leasing FTA funded equipment and drivers
- (4) When no registered charter provider responds to notice from a recipient
- (5) Agreement with registered charter providers
- (6) Petitions to the Administrator

**Charter Reporting** When service is provided under one of the charter exceptions listed above, the subrecipient must report to IMD data associated with the service on forms and in a manner prescribed by IMD.

**Authority** 49 CFR § 604

## 6.2

## School Bus Service

<b>Applicability</b>	Subrecipient of federal financial assistance from FTA
<b>Basic Requirement</b>	Recipients are prohibited from providing exclusive school bus service in competition with private school bus operators unless the service qualifies and is approved by the Federal Transit Administration (FTA) Administrator under an allowable exemption. Federally funded equipment or facilities cannot be used to provide exclusive school bus service.
<b>Authority</b>	49 CFR § 605

<b>Applicability</b>	Subrecipients receiving 49 U.S.C. § 5309, 49 U.S.C. § 5311, or 49 U.S.C. § 5339 funds that employ employees who perform safety-sensitive functions.
<b>Basic Requirement</b>	<p>In the interest of safety in transit operations, subrecipients are required to establish Drug and Alcohol (D&amp;A) Testing Programs. The purpose of the testing program is to help prevent accidents, fatalities, and injuries resulting from the misuse of alcohol or the use of prohibited drugs by employees who perform safety-sensitive functions. Subrecipients must also certify annually that they are in compliance with DOT and FTA regulations concerning drug and alcohol testing (49 CFR parts 40 and 655 respectively). Establishing a testing program is a condition of FTA funding; federal law allows the Secretary of U.S. DOT to bar a recipient from receiving FTA assistance in an amount that the secretary deems appropriate in the event of non-compliance with 49 CFR § 40 and 49 CFR § 655.</p> <p>IMD requires each recipient to:</p> <ol style="list-style-type: none"><li>(1) Establish an anti-drug use and alcohol misuse program</li><li>(2) Establish an education and training program for all covered employees</li><li>(3) Establish and provide written notice to every covered employee, of the employer's anti-drug and alcohol misuse program policy</li><li>(4) Establish a program that provides testing for outlined prohibited drugs</li><li>(5) Establish a program that provides testing for alcohol</li><li>(6) Comply with all testing requirements</li><li>(7) Maintain in a secure location with controlled access, all records of its anti-drug and alcohol misuse program</li><li>(8) Annually prepare, maintain and electronically complete and submit a Drug and Alcohol Management Information Systems (DAMIS) Report that reflects the results of their testing program.</li></ol>
<b>Reporting Requirements</b>	IMD will provide preparation instructions each year along with a transit agency user ID# and password to all FTA Section 5311 subrecipients. A copy

of this report should be printed from the reporting website and kept by the subrecipient.

**IMD Oversight**

IMD may elect to monitor and evaluate DAMIS data. This review will evaluate data on a six-month basis to determine compliance with the FTA Random Drug and Alcohol Testing requirements. This analysis includes assessment of compliance with required random testing levels, subrecipient conduct of tests during all hours and days of operation, and distribution of random tests throughout the testing period.

Subrecipients and contractors are notified in writing of any issues or concerns identified in IMD’s evaluation of results. The subrecipient is required to submit a written response on the corrective action to be taken to remedy the issue.

Consistent with the six-month cycle, IMD will evaluate data before submission of the required DAMIS report. IMD will evaluate both six-month and annual data to ensure the accuracy of the DAMIS submission.

IMD will use the results from these semi-annual reviews to identify common problems among subrecipients and to assess if there are areas of additional technical assistance required to ensure compliance.

**Authority**

49 CFR § 655  
49 CFR § 40