

# **Section 5311 Program Manual**

**Transit Assistance to Small Urban and Rural Areas**



**Fourth Edition**

**January 2016 Update**

**Indiana Department of Transportation  
Public Transit Section**

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## CHAPTER I. INTRODUCTION AND ORGANIZATION

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### WELCOME TO THE NEWLY UPDATED....

.....INDOT Office of Transit *Section 5311 Program Manual!* Every effort has been made to ensure that the resources and references to ensure the successful operation of your Section 5311 rural transit system have been included. One major change to this manual is the provision of electronic “links” for all documents and guidance that tend to be regularly updated, ensuring that you will be accessing the most current information available.

The manual is organized similar to the previous version, with a few additions. Following the introduction and organization of the manual here in **Chapter I**, **Chapter II** contains the Section 5311 Program Goals and Objectives. **Chapter III** describes eligible grantees, services, and funding, while **Chapter IV** contains procedures for filing Section 5311 program applications.

**Chapter V**, Financial Management, covers all aspects of financial management from allowable costs, revenues and match requirements, and force account plans, to pricing service for contracting out, audits, and preparing invoices.

**Chapter VI**, addresses Property Management requirements for all items acquired with Section 5311 funding. **Chapter VII** contains all of the requirements for conducting compliant procurements with State and Federal funding. Forms and checklists have been added that we believe will help you comply with the many procurement rules and requirements, which are often findings in the Indiana compliance

reviews. **Chapter VIII**, Facility Construction and Renovation Guidelines, will be important if you are already, or will be considering, the construction or renovation of a Section 5311-funded facility.

**Chapters IX and X** both address the many compliance areas accompanying the receipt of Section 5311 funding. And, finally, **Chapter XI** is a new chapter added to include a glossary with definitions of terms, used in this manual or which have relevance to rural transit service operation.

We believe that this manual, together with the many other documents and resources cited, will not be another document to collect dust on a shelf, but a valuable tool in your day-to-day rural transit operation. However, as carefully as we have read and re-read the manual, inevitably, something has been overlooked. So, because we view the manual as a work in progress and one that will inevitably be in a continued state of improvement, we welcome your comments and suggestions.

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## INTRODUCTION

The Indiana Department of Transportation (INDOT) Office of Transit has assembled the information contained in this Section 5311 Program Manual to provide the necessary tools to new and existing rural transit systems to successfully and efficiently administer public transportation service in Indiana. Each chapter begins with a general introduction of the topic followed by various sections/subsections containing specific guidance for grantees, governing boards, and third party contractors. This manual, when viewed in its entirety, provides the necessary guidance for providing rural transit service in compliance with all applicable Federal and State requirements. It is set in an electronic environment to permit a content search. Links to all applicable Federal regulations, circulars, guidance, and other resources are also provided in each chapter. You should use these links to ensure that you have accessed all of the information needed for your full compliance with Section 5311 Program requirements. The manual table of contents contains a detailed listing of all topics addressed, permitting the reader to easily choose his or her topic of interest. This manual is designed to assist Section 5311 grantees in implementing and managing rural transit projects in compliance with all applicable Federal and State rules and regulations.

## ORGANIZATION OF, AND HOW TO USE, THIS MANUAL

This manual is divided into eleven chapters that contain explanations regarding all major compliance elements associated with INDOT's administration of the Section 5311 program. Each chapter contains an introduction to the chapter topic followed by easy to understand explanations of all project administrative requirements for that particular topic.

Where INDOT forms, FTA Circulars, Federal and/or State laws, or other resource guides are referenced, a link has been inserted for immediate access and to ensure that you access the most current guidance on the topic. Chapters include:

- I. Indiana Section 5311 Program Manual: Welcome, Introduction, and Organization
- II. Section 5311 Program Summary, Goals, and Objectives
- III. Eligible Grantees, Services, and Funding
- IV. Grant Application Procedures
- V. Financial Management
- VI. Property Management
- VII. Procurement
- VIII. Facility Construction and Renovation Guidelines
- IX. Civil Rights Compliance
- X. Other Program Compliance Elements
- XI. Glossary

Use this manual as a guide and resource to research questions, issues, and or events for which you may need to develop a response or solution. The Office of Transit staff encourages you to look first in the manual for the information or guidance you need. Use the links, forms, and other documents, as applicable. Federal regulations, registers, circulars, and other documents may be difficult to comprehend at first, but they are the basis of your rural transit system. INDOT has made every effort to interpret the rules and regulations in this manual and present them in easy to understand language. However, **it is your responsibility to read both this manual AND the applicable Federal documents to be fully informed.** If, after consulting all of the documents you still have questions, please contact the Office of Transit who will help in any way they can.

## **DISCLAIMER**

This manual provides guidance on how INDOT meets and implements all applicable Federal and State requirements for administration and operation of the FTA Section 5311 Program in Indiana; as indicated above, it is not a replacement of the Federal Transit Administration's (FTA's) circulars and regulations. Links to all of these documents and others are provided throughout the manual and should be

referred to as necessary. Every effort has been made to ensure that the electronic links are active and correct. In the event you have difficulty accessing a link, contact the INDOT Office of Transit (317)232-1483.

This document is available in accessible formats upon request. Paper copies as well as information regarding these accessible formats may be obtained by contacting the INDOT Office of Transit.

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## CHAPTER II. PROGRAM SUMMARY, GOALS, AND OBJECTIVES

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### INTRODUCTION

This chapter contains a summary of the FTA Section 5311 Program, how it is administered, a review of the available funding, and the Program's goals and objectives. It also contains a discussion of INDOT's role and responsibilities for the Program and how the Section 5311 program coordinates with other FTA programs. Manual users should read this chapter to gain an understanding of the Program's history and background and its purpose in supporting public transportation in nonurbanized areas.

### SECTION 5311 PROGRAM SUMMARY

Section 5311 Program funding is for other than Urbanized (Nonurbanized) Areas, which means any area outside of an urbanized area. The term "nonurbanized area" includes rural areas and urban areas under 50,000 in population not included in an urbanized area.

The nonurbanized formula assistance program for public transportation is authorized by 49 U.S.C. § 5311 (Federal Transit Act of 1964, as amended, <http://www.gpo.gov/fdsys/granule/USCODE-2011-title49/USCODE-2011-title49-subtitleIII-chap53-sec5311>). The Federal Transit Administration (FTA), on behalf of the Secretary of Transportation, apportions the funds appropriated annually to the Governor of each state for public transportation projects in nonurbanized areas. The Governor, in turn, has designated the Indiana Department of Transportation (INDOT), Office of Transit, as the responsible state agency for program administration. The statutory formula is based solely on the

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

Program funds may be used for capital and operating. And, the state must use fifteen percent of its annual apportionment to support intercity bus service, unless the Governor certifies that the intercity bus needs of the state are adequately met. The state may also use up to fifteen percent of its annual apportionment for planning and technical assistance activities to existing grantees and program applicants. INDOT, for example, may fund feasibility studies for prospective grantees from this fund.

A separate annual allocation to the state under Section 5311(h), the Rural Transit Assistance Program (RTAP) may be used only for training, technical assistance, research, and related support activities.

The maximum Federal share for capital is 80 percent of the total project costs. The maximum Federal share for operating assistance is 50 percent of the net operating costs.

Eligible recipients include state agencies and local units of governments authorized under state law to provide and carry out a local public transportation project (please see **Chapter II** or a definition of eligible projects).

## SECTION 5311 PROGRAM GOALS

Congress has found that “significant public transportation improvements are necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly individuals, individuals with disabilities and economically disadvantaged individuals in urban and rural areas of the United States.” The national goals of the nonurbanized formula program are:

- ◆ To enhance the access of people in nonurbanized areas to health care, shopping, education, employment, public services, and recreation;
- ◆ To assist in the maintenance, development, improvement, and use of public transportation systems in rural and small urban areas;
- ◆ To encourage and facilitate the most efficient use of all Federal funds used to provide passenger transportation in nonurbanized areas through the coordination of programs and services;
- ◆ To assist in the development and support of intercity bus transportation; and
- ◆ To provide for the participation of private transportation providers in nonurbanized transportation to the maximum extent feasible.

In addition to these program goals, the FTA wants to ensure that all Americans, including those who live in nonurbanized areas, have access to transit to meet basic mobility needs.

Section 5311 funding is allocated to the states based on funding contained in the Federal transportation authorization bills, which generally approve funding for a two-year period. The current authorization,

Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21) continues several important goals that were previously supported by the Safe Accountable Transportation Equity Act-A Legacy for Users (SAFETEA-LU). It also gives significant new authority to the FTA to strengthen the safety of public transportation systems in the United States which will be addressed later in this Manual.

MAP-21 makes substantial structural changes in state-administered FTA programs. One of these major changes is the elimination of the Job Access and Reverse Commute Program (JARC) and the incorporation of these funds into the State Section 5311 apportionments. Projects previously eligible for JARC funding are now specifically eligible under Section 5311. Another major change to the Section 5311 Program is in the allocation of funding to the individual states. Funds are now allocated to the states using, in part, a service measure (revenue miles) in addition to population and land area data.

The goal of Indiana’s transportation system includes providing transit service throughout the state to meet the needs of transit users. The State’s role in the delivery of transit service is supported by the Section 5311 Program, which provides operating and capital assistance as well as program assistance for the Intercity Bus transportation program and the Federal Rural Transportation Assistance Program (RTAP). The mission of the Indiana Department of Transportation’s Office of Transit is to help people and communities meet their mobility needs by supporting safe, responsive, efficient, and environmentally sound transit services.

## **STATE 5311 PROGRAM OBJECTIVES:**

The INDOT Section 5311 Program objectives are as follows:

- ◆ Increase availability of public transit for Indiana's population that enhances access to health care, shopping, education, employment, public services, and recreation;
- ◆ Encourage and support increased coordination of transit service with various public resources that maximizes transportation efficiencies and benefits for Indiana;
- ◆ Alleviate transportation barriers as well as improve mobility opportunities for elderly persons, people with disabilities, economically disadvantaged persons, and any other populations that may have transportation disadvantages;
- ◆ Implement cost effective strategies and performance measures for subrecipient transit systems that maximize the Federal and State investment in transit;
- ◆ Maintain a state commitment to public transportation;
- ◆ Manage federal transit programs to ensure subrecipient compliance with pertinent federal and state regulations;
- ◆ Provide necessary planning and technical assistance to subrecipient transit system to ensure success with meeting local transit needs; and
- ◆ Ensure a successful Intercity Bus program, which promotes the participation of private providers in both the development and provision of transit services in Indiana.

## **MAP-21 Impacts on the Section 5311 Program**

The current funding for Federal surface transportation programs, including the Federal Transit Administration's (FTA's) Section 5311 Program, is authorized in the Federal Transportation Authorization bill entitled Moving Ahead for Progress in the 21<sup>st</sup> Century, or MAP-21.

MAP-21 continues several important goals that were previously supported by the Safe Accountable Transportation Equity Act-A Legacy for Users (SAFETEA-LU). It also gives significant new authority to the Federal Transit Administration (FTA) to strengthen the safety of public transportation systems in the United States.

MAP-21 makes substantial structural changes in state-administered FTA programs, as follows:

- ◆ Section 5310: The Elderly Individuals and Individuals with Disabilities Program that once was awarded directly to the states to distribute on a statewide competitive basis, has been converted to a formula program with 80 percent of the funding now directed at urbanized areas.
- ◆ Section 5316: The Job Access and Reverse Commute Program (JARC) has been eliminated as a separate program. JARC funds are now allocated to the states as part of their Section 5311 apportionment. Projects previously eligible for JARC funding are now specifically eligible under Section 5311.
- ◆ Section 5317: The New Freedom Program has been eliminated. There is a presumption that Section 5310 funded projects can meet needs previously funded under this program.
- ◆ Section 5311: Funds are now allocated to the states using, in part, a service measure (revenue miles) in addition to population and land area data.

Another MAP-21 impact to the Section 5311 Program was the implementation of the Section 5339 Program, which replaced the Section 5309 Bus and Bus Facilities Program. Section 5339 provides capital funding to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities. Funds are allocated to the states, and these funds are eligible to be transferred by the States to supplement urban and rural formula grant programs. In Indiana, Section 5339 funds are awarded through the annual Section 5311 grant application process (see the 5311/5339 Application on the INDOT website, <http://www.in.gov/indot/2436.htm>, and also further discussed in **Chapter III** of this manual) for Section 5311-eligible capital projects.

INDOT's administration of the Section 5311 Program in Indiana is set forth in the policies and procedures contained in this manual.

### **Coordination with Other Programs**

SAFETEA-LU set forth a foundation for coordination with other Federal programs. MAP-21 continued this path, and FTA regional offices are available to work with states to address regional coordinated transportation concerns and initiatives. FTA encourages state DOT's to work with their counterparts at state human service agencies, to participate with other states in regional initiatives, and to assist local recipients and subrecipients of Sections 5307, 5310, or 5311 funds to participate in coordinated systems at the local level, along with recipients of funds from the programs of DHHS and other Federal and state programs. Section 5311, RTAP, and Federal transportation planning funds provided to the state may be used in various ways to support eligible activities related to the development and administration of

coordinated activities at the state and local level.

FTA also encourages state DOT participation in other interagency efforts such as the state Rural Development Councils.

### **INDOT Role in Program Administration**

To the extent permitted by law, FTA gives the states maximum discretion in designing and managing the Section 5311 program to meet nonurbanized public transportation needs. Where possible, FTA defers to states and state instrumentalities in developing program standards, criteria, procedures, and policies in order to provide the states flexibility to standardize their management of FTA assistance and related state programs. U.S. DOT regulations and requirements set forth in 2 CFR 200 referred to as the "Super Circular" (and previously contained in "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 CFR. Part 18, or the "common rule") permit states to rely on their own laws and procedures instead of Federal procedures in the areas of financial management systems, equipment, and procurement and may pass these procedures down to subrecipients which are public entities.

The Governor designates a state agency that will have the principal authority and responsibility for administering the Section 5311 program. The Governor has designated INDOT as the state agency responsible for the administration of the Section 5311 program. INDOT's roles include: documenting the state's procedures in a state management plan; notifying eligible local entities about the availability of the program; 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 by both scheduled and unannounced site visits; and overseeing project audit and closeout. In addition, the state agency may carry out a project directly.

In administering the program, INDOT is also responsible for the following:

- ◆ Providing for appropriate technical assistance for nonurbanized areas;
- ◆ Ensuring that there is a fair and equitable distribution of program funds within the state;
- ◆ Ensuring a process whereby private transit operators are provided an opportunity to participate to the maximum extent feasible;
- ◆ Expending funds for the support of intercity bus transportation to the extent required by law; and

- ◆ Providing for maximum feasible coordination of public transportation services assisted by FTA with transportation services assisted by other Federal sources.

INDOT must include its Section 5311 apportionment, along with all other Federal highway and transit funds, in a Statewide Transportation Improvement Program (STIP) approved by FTA and the Federal Highway Administration (FHWA). FTA subsequently obligates Section 5311 funds and any flexible funds transferred to Section 5311 based on the program of projects included in the state's Section 5311 grant application. Before the state may expend Federal funds on behalf of a subrecipient, the state must enter into an agreement with the subrecipient, and the subrecipient must have met all statutory and program requirements. The state certifies to FTA annually that the state and subrecipients have met, or will meet, all Federal requirements.

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## CHAPTER III. ELIGIBLE GRANTEES, SERVICES, AND FUNDING

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### INTRODUCTION

This chapter defines who is eligible to receive Section 5311 funds, what services are eligible for reimbursement under the program, and how eligible organizations can apply for funding. All citations to Indiana Code include the link to the appropriate section of the code, therefore, ensuring that the most current version of the Code will be available when referenced. If you have any difficulty in accessing the link by clicking on it, simply cut and paste it into your browser.

Further, if you refer to certain sections of the code frequently, you may wish to download a copy to keep handy in your Section 5311 Manual; however, you should check at least annually, if not more often, to ensure that you are referring to the most current version of the applicable section.

### Eligible Applicants

The Indiana Department of Transportation permits local public entities, public transportation corporations, regional commissions, and non-profit organizations that have been authorized to provide public transportation in the State of Indiana to be an eligible recipient of Section 5311 funds, with the following conditions and stipulations, consistent with INDOT program management practices:

1. An eligible public recipient includes:
  - a. The State of Indiana, counties, cities, or towns within the State.
  - b. Public Transportation Corporations (PTC) as established under I.C. 36-9-4-12 (<http://www.in.gov/legislative/ic/2004/title36/ar9/ch4.html> ).
  - c. Regional Transportation Authorities (RTA) as established under I.C. 36-9-3-2 (<http://www.in.gov/legislative/ic/2010/title36/ar9/ch3.html> ).
  - d. Regional Planning Commissions as established under I.C. 36-7-7 (<http://www.in.gov/legislative/ic/2004/title36/ar7/ch7.html> ).
  - e. With designation by formal resolution of the local governing board, nonprofit organizations.
2. In the case of lower tier contracts between public entities and the service provider, the public entity must assign compliance responsibility for all applicable contract terms and conditions to the pass-through recipient.
3. The eligible public agency will continue to be the responsible party for invoice submission, receipt of all payments from INDOT, and shall hold the title to all capital equipment that may be acquired under a Section 5311 grant.
4. Nothing in this guidance prohibits an eligible public entity from using competitive means to select an entity to manage and administer its public transportation program.
5. In order to minimize INDOT's project management burden, and in consideration to both FTA's and INDOT's objectives for local service coordination, an eligible public entity may only enter into one

“pass-through” arrangement in a given county for a countywide rural public transit system.

- a. If a public entity operates over a multi-county service area, one pass-through arrangement per county is permissible.
- b. INDOT will permit a city or town in a nonurbanized area to operate its own public transportation within its political boundaries, even if such a system falls within the service area of a countywide rural public transit system. Under such circumstances, INDOT shall require the city or town and the public agency sponsoring countywide public transportation to coordinate services to the maximum extent possible.

### **Eligible Transit Services**

Eligible services which may be funded under the Section 5311 program include any transportation service provided by bus, shared-ride taxi, or other publicly or privately owned conveyance that serves the general public on a regular basis in primarily nonurbanized areas. Eligible projects may constitute an entire public transit system, a particular service or function within that service, or an individual route or route segment. Service may include transportation to and from urbanized areas. However, such services should not include both pick-up and discharge operations within the urbanized area, particularly if the urbanized area is served by public transit. If Section 5311 funds are used in a joint urbanized and nonurbanized project, Section 5311 funds must be used primarily

to assist the nonurbanized portion of the project. Urbanized/Nonurbanized services should be coordinated whenever possible (i.e., drop-offs/transfers from demand response providers at the urbanized fixed route stops).

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

### **INDOT Use of Section 5311 Funds**

As noted previously, FTA apportions Section 5311 funds to Indiana in accordance with a formula based on the percent of Indiana’s nonurbanized population as a ratio of the total nonurbanized population in the U.S. The amount of funds so apportioned is dependent upon the annual appropriation of funds by the Congress.

INDOT allocates its annual apportionment of Section 5311 funds as set forth below.

### **Administrative and Technical Assistance Funds**

Up to 10 percent of INDOT’s annual apportionment may be assigned to administer the program and provide technical assistance to applicants and existing transit systems. Technical assistance may include:

- ◆ Project planning and development (including feasibility studies);
- ◆ Management and operations; Maintenance; and
- ◆ Coordination of public transportation resources and pro-grams (public and privately owned).

### **Section 5311(f) Intercity Bus Program**

The FTA requires that states receiving Section 5311 Program funds expend a minimum of 15 percent of those funds on an intercity bus program, unless the Governor certifies that intercity bus needs in that state are being adequately met. Section 5311(f) requires a State to consult with intercity bus providers before seeking a Governor's certification. The legislative history indicates that the assessment of intercity bus needs may be made "relative to other rural needs in the state."

Based on the results of the 2009 Indiana Intercity Bus Study and input provided by the state's intercity carriers and rural public transportation providers, the primary emphasis of the INDOT Intercity Bus Program is to utilize the Section 5311(f) funds to provide operating assistance for the provision of intercity bus service. This can be accomplished by providing traditional intercity route service or feeder connections to existing intercity services.

Projects that offer services coordinated with other intercity services will receive priority, including those that utilize through-service buses, interline tickets, common intermodal terminals, coordinated schedules and joint information or marketing plans. INDOT requires that all services provided with Section 5311(f) funds offer users a meaningful connection with the national intercity bus network, including interline (joint) ticketing and service connections that are shown in the public timetables for the services. In addition, all projects funded under this program must provide for the marketing of the services to the general public. Requests for operating assistance must include in their project description information about specific marketing efforts for the proposed service. A minimum of ten

percent of the total project amount should be allocated for marketing expenses.

Section 5311(f) operating budgets will be developed on a cost per mile basis. Project reimbursements will also be based on cost per mile.

Section 5311(f) funds can be used to provide up to fifty percent (50%) of the net cost of service. The net cost of service is determined by subtracting passenger revenue from total operating expenses. The remaining 50 percent of the net cost of service must be provided with cash, and/or "In-Kind Match" as is made available through the Section 5311 program. (See Section 5311(f) Intercity Bus Program Application Package for more information on "In-Kind Match.") Those projects with a higher percentage of passenger revenue and/or contributions from local government(s) will be given a higher priority for funding.

The INDOT Office of Transit's Section 5311(f) Management Guide and grant application is available at <http://www.in.gov/indot/2436.htm>.

### **Grantee Allocations**

Once INDOT has allocated the necessary funds for administrative and technical assistance and has satisfied its obligations to fund intercity services, the remaining amount of INDOT's annual apportionment will be allocated by formula to existing grantees.

The factors used in this allocation are as follows:

- ◆ Population – Service area population, as determined by the last decennial census, accounts for 30 percent.

- ◆ Annual Passenger Boardings – Annual passenger boardings account for 30 percent.
- ◆ Locally Derived Income (LDI) – Locally derived income is determined by adding a project’s farebox revenue, local appropriation of funds, and cash grants. LDI accounts for 40 percent of the allocation weighting. LDI does not include contra-expenses or in-kind volunteer labor services.

**Formula Calculation**

INDOT has established a baseline allocation for each grantee. Allocation factors are then calculated by dividing each grantee’s population, three-year average passenger boardings, and three-year average LDI by the total population, average passenger boardings, and average LDI, respectively, for all existing grantees.

Each allocation factor is multiplied by its weight factor, then all three factors are added together to establish the grantee’s Total Allocation Factor. Each grantee’s Total Allocation Factor is then multiplied by the amount of Section 5311 funds available for public transit project funding for the year to calculate the amount of funding available for each grantee. Allocated funds can be used for capital and/or operating projects. The INDOT Office of Transit reserves the right to allocate funds at its discretion based on program needs.

For additional information about the formula allocation, contact the INDOT Office of Transit.

**Data Sources for Funding Calculations**

INDOT will take all due care to ensure that inputs used in funding calculations are up-

to-date and accurate. Population data will be derived from the current decennial census of population and housing prepared by the U.S. Bureau of the Census. The most recent three (3) years of data available from the Annual Public Transportation Reports will be used for annual passenger boardings and LDI. Data from the reports is verified annually by INDOT. Data that cannot be verified as accurate will not be used. INDOT, at its election, may use data from a recent previous year or a reasonable estimate thereof. If a grantee consistently provides INDOT with inaccurate data, INDOT reserves the right not to allocate funding to that grantee based on that allocation factor.

**Section 5339 Funds**

FTA’s Section 5339 funds for bus and facility projects are allocated to each state. The states can, in turn, use these capital funds to supplement their Section 5307 and Section 5311 Programs. INDOT exercises this discretion to use its available 5339 funds for eligible Section 5311 capital projects; Section 5311 funds are used to primarily fund operating projects, although a small portion (up to \$3,000) of a grantee’s Section 5311 allocation can be used for capital purchases. All capital projects, regardless of the source of funding, are subject to INDOT’s eligibility priorities and are evaluated with INDOT’s Capital Application Review and Rating Form. INDOT’s evaluation process is discussed further in **Chapter IV**.

**New Applicants and Allocation Formula**

Any new applicant approved for funding will be added to the funding formula in its third year of operation. New systems are required to collect data during the first two years of operation as a demonstration project. INDOT will use the operating data

collected during the demonstration project when adding the new applicant to the funding formula.

### **Disposition of Fund Balance**

In the event funding is de-obligated, it may be re-programmed or carried forward and added to the next year's formula apportionment. Alternatively, fund balances may be used by INDOT to fund special projects or marketing studies, etc.

Using the flexible funding provisions originally authorized under ISTEA, the Governor is also permitted to transfer the reserve to urbanized areas under 200,000 population.

## **PARTICIPATION RATIOS AND LOCAL SHARE REQUIREMENTS**

### **Capital Grants**

INDOT will make Section 5311/5339 funds available for capital expenses, which generally include the acquisition, construction, and improvement of public transit facilities and equipment. However, INDOT views vehicle acquisition as a priority when appropriating funding for all other capital requests.

Generally, Section 5311/5339 funds may be used to fund up to eighty (80%) percent of the net capital cost of the improvement or acquisition. See the 5311/5339 Application on the INDOT website, <http://www.in.gov/indot/2436.htm>.

Intercity capital projects funded under Section 5311(f) are also funded at the eighty percent level. Additionally, these grants may include planning and marketing activities.

### **Operating Grants**

INDOT will make Section 5311 funds available for operating expenses, which generally include salaries and wages, fringe benefits, purchase of transit service contracts, fuel, oil, lubricants, replacement parts, tires, vehicle insurance, licenses, and other expenses.

### **Local Share**

The non-Federal share of project expenses must be matched by local funds. The local share must be from non-FTA sources, and can include any local or state source. Additionally, in certain cases, other Federal funds that have been determined to be "unrestricted" Federal or State funds may be used as match to Section 5311. "Unrestricted Federal Funds" (including Title XIX) - those funds authorized by a federal agency (e.g. Health and Human Services) can be used as local match for Section 5310 and Section 5311 grants. The project applicants are responsible for identifying unrestricted funds because of their accountability by the other federal agencies involved.

Subrecipients may use funds from other Federal agencies (non-DOT) for the entire local match if the other agency makes the funds available to the subrecipient for the purposes of the project. **The only DOT funds that States can use as local match for Section 5311 projects are from the Federal Lands Highway Program cited in 49 U.S.C. 5311(g)(3),** <http://www.gpo.gov/fdsys/granule/USCOD-E-2011-title49/USCODE-2011-title49-subtitleIII-chap53-sec5311>.

With respect to operating expenses, 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. Federal/State funds for operating projects. The Federal share for planning and capital projects may not exceed 80 percent of the net project cost. 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.

Local grants, appropriations, and dedicated tax revenues; Income derived from purchase of service contracts, including contracts where the purchaser utilizes unrestricted Federal funds to finance the purchase of transit service; State funds from the Public Mass Transportation Fund (PMTF), only after completing the two year demonstration period; Other state funds eligible to match Federal funds. The appropriate state grantor agency must approve the use of the funds as match to other Federal funds; and In-kind contributions (cash equivalent) as defined in 2 CFR Part 200 [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl). (Note: all requirements previously contained in 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" are now contained in 2 CFR Part 200, or the "Super Circular.")

Of critical importance in the INDOT decision to finance local transit projects through the Section 5311 program is the Federal requirement that Section 5311 funds be used to augment, rather than supplant, existing sources of passenger transit revenue. It is INDOT's experience that local financial commitment is a primary factor in the long-term viability and success of the project.

## **ELIGIBLE FUNDING**

### **Capital Costs**

Eligible capital items include, but are not necessarily limited to:

- ◆ Buses;
- ◆ Vans or other paratransit vehicles;
- ◆ Radios and communications equipment;
- ◆ Passenger shelters, bus stop signs, and similar passenger amenities;
- ◆ Wheelchair lifts and restraints;
- ◆ Vehicle rehabilitation;
- ◆ Operational support equipment, such as computer hardware and software;
- ◆ Installation costs, vehicle procurement, testing, inspection, and acceptance costs; and
- ◆ Construction or rehabilitation of transit facilities including design, engineering, and land acquisition.

### **Operating, Maintenance, and Administrative Costs**

INDOT considers all system operating, maintenance, and administrative costs to be project "operating" expenses.

Operating expenses are considered to be those costs directly related to system operations and include, but are not necessarily limited to:

- ◆ Fuel;
- ◆ Oil;
- ◆ Replacement tires and parts which do not meet the criteria for capital items;
- ◆ Extended warranties;
- ◆ Maintenance and repairs;
- ◆ Drivers' and mechanics' salaries
- ◆ Dispatchers' salaries;
- ◆ Fringe benefits;
- ◆ Licenses;
- ◆ Salaries of the project director, secretary, and bookkeeper;

- ◆ Vehicle signage;
- ◆ Marketing expenses;
- ◆ Insurance premiums or payments to a self-insurance reserve;
- ◆ Office supplies;
- ◆ Facilities and equipment rental;
- ◆ Standard overhead rates (a grantee must have an approved cost allocation plan on file with INDOT for these costs to be eligible);
- ◆ Administration of drug and alcohol testing; and
- ◆ Medical Qualification assessments.

Administrative costs for promoting and coordinating ridesharing may be eligible if the activity is part of a coordinated public transportation program. Interest on short-term loans for operating assistance is an eligible operating expense if the grantee has the prior approval of INDOT. Upon approval from INDOT, short-term loans may not exceed a contract period of 120 days and must be paid in full upon receiving the quarterly reimbursement.

INDOT participation in operating costs is based on “net” operating costs.

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

At a minimum, operating revenues must include farebox revenues. Farebox revenues include fares paid by riders who are later reimbursed by a human service agency, or other user-ride subsidy arrangements, but do not include payments made directly to the transit provider by human service agencies. As noted above, this revenue may be used as local match.

## **OTHER INDOT ASSISTANCE**

### **Technical and Management Assistance**

INDOT provides management and technical assistance to eligible grantees. INDOT will assist in the development of transit programs that improve the knowledge base of rural and small urban management. Technical assistance may be provided in the areas of planning, funding, vehicle and equipment procurement, and vehicle maintenance training and is further explained below.

### **Planning**

Planning assistance is available upon request from the INDOT Office of Public Transit and may include conduct of transit feasibility studies, ridership surveys, ridership estimation, routing and scheduling analyses, revenue and cost studies, and capital needs assessments.

### **Financing**

INDOT will assist grantees and applicants for Section 5311 funding identify alternative funding sources to support rural passenger transportation.

### **Vehicle and Equipment Procurement**

INDOT will assist with the procurement of grant related equipment. Vehicles must be purchased from the Indiana Qualified Allocation Plan (QAP). INDOT requires all grantees to adhere to the principles contained in the most recent version of FTA Circular 4220, [http://www.fta.dot.gov/legislation\\_law/13718.html](http://www.fta.dot.gov/legislation_law/13718.html). Grantees may follow their own local procurement procedures, provided that, at a minimum, the basic requirements of this circular are met.

## **Vehicle Maintenance**

INDOT provides information and assistance in detailing vehicle maintenance procedures. The INDOT Guide to Preventive Maintenance is available on the Indiana RTAP website. INDOT also provides on-site maintenance assistance and training through the Rural Transit Assistance Program (RTAP), which is explained later in this manual.

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## CHAPTER IV. GRANT APPLICATION PROCEDURES

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### INTRODUCTION

This section reviews INDOT grant application requirements and procedures under the Section 5311 program. Procedures are subject to annual change. Existing and prospective grantee should refer to the INDOT Office of Transit application package that is produced each year for additional guidance.

### FIRST TIME APPLICANTS: BEFORE YOU APPLY

INDOT encourages interested parties to meet with INDOT Office of Transit staff early in the planning process to discuss potential transit grant projects. Pre-planning meetings improve the applicant's understanding of the program requirements. First time applicants must have completed an approved feasibility study in order to apply for funding assistance. Feasibility study project periods must be based on a calendar year (January – December). As such, new applicants needing funding assistance to conduct the feasibility study must complete a 5311 grant application. Each new system will be established as a demonstration project that INDOT is not obligated to fund beyond two years. INDOT will review the consistency between an applicant's feasibility study projections and two years data on vehicle miles, operating expenses, and passenger trips. Subsequent funding will be contingent upon INDOT findings regarding efficiency and productivity.

**Please note that completion of a feasibility study does not guarantee approval of an applicant to enter the**

**5311 Program, nor the receipt of 5311 funding.**

### THE APPLICATION PROCESS

Section 5311 funds are made available to eligible applicants on a calendar year basis. Applications are submitted to the INDOT Office of Transit on a pre-determined schedule. This schedule is published on the INDOT website at <https://secure.in.gov/indot/2436.htm>.

#### Grant Application Development

Completion of the grant application is the second step in the grants process. Eligible applicants are notified of the acceptance of their Letter of Intent (new applicants only) and are sent a grant application package and instructions for completing the application. Existing grantees will also receive an application package and instructions. INDOT offers assistance to those applicants having difficulty completing the application.

The application generally includes the following items:

1. *A description of the project and the project budget.* The applicant must describe existing transportation services, service area, number of passengers served, existing vehicle inventory, type of service provided, capital needs, proposed operating and capital budgets, procurement systems, and system operation and performance. INDOT recommends that applicants begin small when establishing a transit system and plan for service expansion.

2. Coordination with other groups. The applicant must describe how coordination on the project will be achieved with the following groups:
  - a. Social Service Involvement: The applicant must make an effort to encourage social service agency transportation providers to participate in and coordinate with the project.
  - b. Public Involvement: Public involvement is essential to providing a service that addresses community needs. Efforts to involve the public should be made. INDOT strongly encourages applicants to establish a local transportation advisory committee or board. The transportation advisory board is expected to encourage private sector participation to afford an opportunity for input in plan developments. Public hearings are required for all capital grant applications.
  
3. Transportation Improvement Plans: Section 5311 transit systems that are located within metropolitan planning boundaries must submit their transit projects to the applicable Metropolitan Planning Organization (MPO) for inclusion in the current Transportation Improvement Plan.
  
4. Grant justification: The applicant must provide evidence of need and how the services or equipment requested will meet that need. The applicant must also explain how the project complements existing services and resources.
  
5. Governing body authorization: A resolution must be passed by the appropriate legislative body authorizing the applicant to pursue Section 5311 funding.
  
6. Federal Compliance Certifications and Standard Assurances: Applicants must certify compliance with various Federal requirements, including:
  - a. Title VI
  - b. Equal Employment Opportunity Act
  - c. Section 504
  - d. Americans with Disabilities Act
  - e. Bus Testing Requirement
  - f. Restrictions on Lobbying
  - g. Disadvantaged Business Enterprise Program
  - h. Section 5333(b) (labor requirements)
  - i. Charter Rule
  - j. School Bus
  - k. Environmental Protection
  - l. Evaluation of Flood Plain (for capital transit facilities only)
  - m. Real Estate Acquisition and Relocation (for capital transit facilities only)
  - n. Buy America Provision
  - o. FTA's Safety Jurisdiction
  - p. Drug and Alcohol Testing

## **EVALUATION CRITERIA FOR GRANTS**

### **Operating Assistance for Existing Grantees**

Existing grantees have already demonstrated satisfactory effort to operate their transit systems according to INDOT's guidelines. As such, the criteria used by INDOT to evaluate existing Section 5311 grantee applications are the completeness and thoroughness of the application. A checklist is used to verify that all pertinent items are submitted, complete, and adequate.

### **First-time Applicants**

First-time applicants are those who have never received Section 5311 funding. A feasibility study must be completed to be

eligible to apply for Section 5311 funding assistance. At a minimum, a first-time applicant's feasibility study must address the following eight (8) evaluation factor criteria:

1. Identification of the need for public transit service;
2. Identification of potential trip generators;
3. Calculation of service demand (peak & off peak);
4. Identification of the most appropriate type of service;
5. Identification of capital requirements needed to meet demand;
6. Identification of projected operating costs;
7. Determination of degree of long-term local community support; and
8. Identification of marketing effort required for start-up.

Entities considering the development of new Section 5311 eligible services should contact the INDOT Office of Transit as early in the process as possible.

### **Operating Assistance for New Applicants**

Applications for funding from new applicants are reviewed by INDOT and RTAP. Seven (7) evaluation factor criteria are weighted according to their importance in fulfilling program goals. The "New Applicant Operating Application Review and Rating Form" is available in the Forms Section on the INDOT website, <http://www.in.gov/indot/2436.htm>. These criteria include:

1. The completeness of the application and compliance with guidelines and requirements of the application process.

2. While INDOT will concentrate review time on the merits and technical aspects of the application, failure to adequately address every requirement will adversely affect the rating of the grant and may eliminate the grant from further consideration. INDOT Office of Transit staff are available to assist applicants with the application process (phone numbers are included in **Chapter I** of this manual).
3. The ability of management to administer the grant and meet INDOT's program guidelines and requirement and operate a transit system.
4. New applicants will be evaluated on previous experience with similar grant programs, management structure, and accounting system. INDOT will examine compliance with other federal and state grant regulations and guidelines by reviewing the most recent audit of the applicant. The ability of the new applicant to operate a transit system will be evaluated based on the proposed organizational structure of the system, the experience of the personnel required to perform the system functions, and the applicant's past experience in operating a transportation system.
5. The extent to which existing services, manpower, and equipment are used in the project.
6. INDOT requires that applicants make every effort possible to coordinate available resources under operating and capital grants. Applicants must encourage every possible transportation provider (including

private-for-profit) to participate in the project. Successful coordination would include the commitment of other local agencies to purchase service, share resources, and use the transit system. New applicants will be evaluated based on the amount of coordination expected and planned for in the proposed transit system. If other providers are not interested in participating in the project, then the applicant must develop a transit system compatible with the other providers.

7. The appropriateness of type of service, planned improvements, expansion, and equipment.
8. The development of the transit system must be carefully planned and explained because the proposed cost and projected productivity are functions of the type of service established to meet the mobility needs. The new applicant should make these decisions after careful and appropriate consideration of the purpose and expectations of the service. If the purpose and expectations are not clearly defined, it will be impossible for the applicant to determine if the service is successful.
9. The grant justification should show the relationship between the transit service and the identified mobility needs and service area characteristics (*e.g.*, geography, traffic patterns, population density, etc.). The applicant must make every reasonable effort to ensure that elderly and persons with disabilities will be able to use the public transit service.

10. The appropriateness of the type of service will be reviewed in part based on the following criteria:

**Fixed Route Service**

- ◆ Service area has few main activity centers, central business district is usually the primary activity center
- ◆ Trip needs may be met through fixed schedules
- ◆ Trip needs may be met by service over major streets
- ◆ Service area has relatively high population density
- ◆ Users have convenient access to routes
- ◆ Routes are accompanied by the required Complementary Paratransit Service

**Demand Responsive Services (including Dial-a-Ride, advanced request, deviated fixed route, and shared-ride taxi):**

- ◆ Trip needs are dispersed throughout the service area and throughout the day
- ◆ A significant proportion of users are those who have difficulty walking and standing (*e.g.*, getting to fixed route type services)
- ◆ Service area has relatively low population density
- ◆ New applicants will be evaluated based on the appropriateness of the type of service in terms of the aforementioned criteria and on the type of equipment to be used in relationship to the demand for service. Careful consideration will be given to assessing the methods used by the applicant in selecting a particular type of service.

1. The actions previously implemented and/or planned to reduce operating costs and to improve operating revenue.

Since operating revenues do not cover total costs, it is imperative that

management makes every effort to keep costs low. This is extremely important in view of the limited amount of governmental assistance available to finance transit. The applicant's ability to increase operating and other revenues will directly improve the financial stability of the transit system by decreasing its dependency on governmental assistance. The applicant must give consideration to an appropriate revenue recovery program for its transit system.

New applicants will be evaluated based on the reasonableness and appropriateness of expenses and revenue sources in relation to service characteristics. INDOT highly recommends that a formal fare structure be established.

2. The suitability of the existing and/or proposed promotional techniques and programs to reach riders and potential riders.

New applicants will be evaluated based on the appropriateness of planned marketing, public information, and promotional programs. These planned programs will be evaluated in relationship to objectives for reaching and maintaining projected ridership levels. At a minimum, INDOT expects each applicant to design some basic public information (i.e., bus schedules, ride guides, etc.) and to develop a proposal for its dissemination.

## **CAPITAL ASSISTANCE**

INDOT currently views vehicle acquisition as a priority within the program. As such, requests for capital assistance outside of vehicles purchased off the INDOT Quantity

Purchase Award (QPA) agreements may only be considered on a discretionary basis.

Similar to applying for operating assistance, the capital assistance application is evaluated according to several weighted factors. The weights of the factors represent the importance of the factor in achieving program goals. The evaluation criteria include:

- a. *Project Justification.* Are vehicles or equipment requests appropriate (i.e., does the vehicle mileage information justify replacement)? Are facilities, expansion, or equipment necessary for continued and/or improved operation? In regard to capital assistance, INDOT will give replacement vehicle projects the highest priority. However, it is critical for approval that sufficient information on mileage, age, and condition of vehicles is provided. Projects will be prioritized for eligibility as follows:
  - Replacement passenger vehicles for existing grantees;
  - Replacement of major equipment or maintenance items for existing grantees;
  - Passenger vehicles for expanded services for existing grantees and new applicant capital requests;
  - Facility rehabilitation; and
  - Construction of new facilities.

INDOT may consider projects for new facilities and expansion or rehabilitation of existing facilities. A project of this type must be clearly justified. For example, in the case of a facility expansion project, a transit property may decide to wash buses in-house rather than pay for a third party service. This decision will require the addition of a bus wash bay to the transit facility. To justify this project, the applicant

must provide documentation that it is more cost-effective to wash buses in-house.

- b. *Administrative Capability.* The ability of management to administer the grant and meet INDOT's guidelines and requirements.

INDOT staff will look for staff with experience or access to personnel with experience in the fundamental aspects of procuring vehicles, equipment, and other capital assets, and in scheduling and implementing construction projects, if applicable.

- c. *Utilization.* Extent to which existing area-wide services, manpower, and equipment are used in the project.

The applicant must demonstrate that that applicant has developed cooperative relationships with other agencies involved in providing transportation or other services that involve the use of resources similar to those required by the transit system. All capital projects will be reviewed in terms of the availability of opportunities to fulfill capital needs through cooperative relationships and sharing resources with outside agencies.

- d. *Quality.* Completeness of the application and compliance with guidelines and requirement of the application process.

All applications must be complete and follow the requirements. The applicant must provide adequate information for INDOT to evaluate the value and need for the project.

## **APPLICATION REVIEW PROCESS**

The application review process is designed to identify projects of exceptional quality. Documented efforts to operate the transit

system in the most effective and efficient manner possible, secure sources of local cash match, and establish a fare revenue policy consistent with local goals will be viewed positively by INDOT. However, due to the limited amount of Section 5311 funding, preference is given to existing Section 5311 grantees.

INDOT and RTAP will review and rate the operating applications of new applicants and all capital applications using the application Review and Rating forms mentioned in this section. Based on this ranking, INDOT will make project selections based on the highest scores and project priorities identified in this section. INDOT will award projects based on funding availability.

## **PROGRAM OF PROJECTS**

The selected applications and the existing grantees' operating applications will be compiled into INDOT's proposed Program of Projects (POP). Each capital and operating application will be listed as a separate line item and the funding amounts will be identified. The Program of Projects will then be presented to INDOT management. Upon approval, the Program of Projects will be incorporated into INDOT's annual application for Section 5311 funds to the Federal Transit Administration.

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## CHAPTER V. FINANCIAL MANAGEMENT

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### INTRODUCTION

Receipt of a Section 5311 grant obligates the grantee to use funds it receives as specified in the project application and grant agreement. Execution of the grant agreement establishes a partnership between INDOT and the grantee wherein INDOT assumes an oversight role in the use of grant funds and retains a vested interest in the unused grant balances, improperly applied funds, and property and facilities purchased or otherwise acquired under the grant.

Grantees and third party contractors are responsible for establishing and maintaining adequate internal control over all the functions that relate to project administration and execution. These control systems must adhere to:

- ◆ Indiana Code (I.C.) 5-11-1-2 (<http://www.in.gov/legislative/ic/2010/title5/ar11/ch1.html>)
- ◆ Applicable Federal requirements outlined in 2 CFR Part 200, or the “Super Circular” located at [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl).
- ◆ Program specific guidance contained in FTA Circular 9040.1G, available at [http://www.fta.dot.gov/legislation\\_law/12349.html](http://www.fta.dot.gov/legislation_law/12349.html).

The overall objectives of the grantee’s financial management system should be to:

- ◆ Operate efficiently and economically;
- ◆ Keep project obligations and costs within the limits authorized under the grant and with legal requirements,

consistent with the scope of the project as outlined in the application;

- ◆ Safeguard project assets against waste, loss, and misuse;
- ◆ Ensure timely collection and proper accounting of the grantee’s operating and contract revenue; and
- ◆ Assure accuracy and reliability in financial, statistical, and other required reports.

In order to achieve these objectives, grantees must have a system of internal control, an accounting system that meets certain standards, and an overall financial management process that meets the minimum requirements of 2 CFR Part 200, [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl).

**Important Note:** The Office of Budget and Management’s role in the oversight of Federal grants covers three primary areas: cost principles, grant management/administrative requirements, and audits. Previously, OMB issued a series of circulars that contained guidance of relevance to INDOT administered grant programs. These circulars were A-87, A-122, A-102, A-110, and A-133. Circulars A-102 and A-110 were codified at 49 CFR Part 18 and were commonly referred to as the “Common Rule.” Circular A-133 incorporated the requirements of the Single Audit Act of 1984, as amended. In December 2013, OMB published new guidance which consolidated all previous circulars into one now commonly referred to as the “Super Circular.” In reality, the “Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” is not a circular, but is a compilation of all of the previous circulars’

requirements codified at 2 CFR Part 200. OMB's guidance, or the Super Circular, became effective December 26, 2014. All comments and references in this manual will be to 2 CFR Part 200 which is available at [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl).

## FINANCIAL MANAGEMENT SYSTEM

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

1. Identify, in its accounts, all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the CFDA title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.
2. Maintain accurate, current, and complete disclosure of the financial results of each Federal award or program.
3. Keep records that identify adequately the source and application of funds for federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.

4. Demonstrate effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes.
5. Compare expenditures with budget amounts for each Federal award.
6. Develop written procedures to implement payment procedures when drawing funds directly from the Treasury.
7. Develop written procedures for determining the allowability of costs.

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

Functions such as accounting and payroll are typical of shared functions utilized by a local government that operates a rural transit program. The costs associated with shared functions are an eligible expense under the Section 5311 program as an indirect cost to the extent they reflect the indirect cost rate developed by the grantee and as approved by the grantee's cognizant Federal agency. A copy of the grantee's cost allocation plan must be on file with INDOT if

these costs are to be claimed under the Section 5311 program.

“Indirect costs” are those costs incurred for a common or joint purpose benefiting more than one department or fund and that is not readily assignable to the transit program without effort disproportional to the results achieved.

“Cognizant agency” means the Federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals on behalf of all Federal agencies in accordance with the specific requirements of 2 CFR Part 200.

Grantees may also periodically benefit from donated goods or services provided by volunteers, outside professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable either as a direct or indirect expense under Section 5311. However, the value of the donation may be used to meet the matching requirements of the program (cash equivalent) where permitted by INDOT. Contact INDOT before using donated services.

Consistent with the cost principals outlined in 2 CFR Part 200. INDOT requires that the value of the donated service be supported by the same methods used by the governmental organization to support other direct expenses.

### **Allowable Costs**

Costs, consistent with the approved project budget, are allowable to the extent they meet the following criteria. The cost must be:

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

### **Special Items**

Grantees should also be aware of special conditions regarding the allowability of costs, as follows:

- ◆ *Advertising* – Advertising and public relations costs incurred by the grantee to promote the transit system are allowable under the Section 5311 program, even though 2 CFR Part 200 indicates that most advertising costs for these purposes would be unallowable.
- ◆ *Advisory Councils* – Reasonable expenses of advisory councils (costs incurred by advisory councils or committees) are generally allowable.
- ◆ *Bad Debts and Penalties* – Any losses arising from uncollectible accounts and

other claims, and related costs, are unallowable.

- ◆ *Donated Services* – The value of donated or volunteer services is not reimbursable either as a direct or indirect cost. The exact allowable provisions for using donated services is contained in 2 CFR Part 200.
- ◆ *Contingencies* – Expenses for contingencies or capital reserve accounts are unallowable, however, INDOT may specifically allow a contingency for certain capital acquisitions. Such expenses must be a part of the approved project budget.
- ◆ *Contributions and Donations* - Contributions and donations, including cash, property, and services, by governmental units to others, regardless of the recipient, are unallowable according to the stipulations of 2 CFR Part 200. The value of services, equipment, or property donated to the non-federal entity may not be charged to the federal award as either a direct or indirect (F&A), however, the value may be used to match the local match share of INDOT grants. Donations/contributions must meet the all of the following conditions to be permitted as match:
  - Must be verifiable from the grantee’s financial records;
  - Cannot be included as a contribution for any other federal awards;
  - Must be necessary and reasonable to the grantee’s transit program;
  - Must meet all allowability standards;
  - Must not paid as a cost under any other federal award;
  - Must be documented in the approved project budget;
  - Must conform to other provisions of 2 CFR part 200.

- ◆ *Depreciation* – Depreciation of facilities or equipment purchased with Federal or state capital funds is unallowable. Depreciation of private assets is also unallowable.
- ◆ *Income Taxes* – Federal, state, and local income taxes paid by private operators under contract are unallowable.
- ◆ *Related Activities* – Expenses for indirect transportation-related activities performed by regional or local entities as a normal function of general public administration are unallowable. An example would be expenses incurred by a city council while considering transit matters.
- ◆ *Intangible Assets* – Amortization of intangible assets is unallowable.
- ◆ *Memberships* – Costs associated with memberships in business, professional, or technical organizations are allowable. Memberships in organizations substantially engaged in lobbying are unallowable.

### **Pre-Award Audit**

INDOT will conduct a pre-award audit of all new grantees prior to entering into a financial assistance agreement for Section 5311 funds. The purpose of this audit is to review the grantee’s system of internal controls and financial management system.

INDOT will also review the grantee’s most recent single audit report to identify any deficiencies in the grantee’s accounting and financial management practices that must be resolved prior to the award of the grant.

INDOT or representatives from the Indiana State Board of Accounts reserve the right to conduct an on-site review of the grantees accounting and financial management

systems as part of the pre-award process. While the on-site reviews are usually limited to new grantees, INDOT or its representatives may also visit grantees who have received a major grant award or who have encountered difficulties in the administration of previous Federal and/or grants.

### **Chart of Accounts**

INDOT has adopted a standard chart of accounts that must be used in budgeting and reporting Section 5311 expenses. This chart of accounts is based on the Federal Transit Administration (FTA) required chart of accounts, which is used by FTA grantees in urbanized areas throughout the United States and is illustrated in INDOT's "Itemization of Quarterly Expenses" which is available in the Forms Section of the INDOT website, <http://www.in.gov/indot/2436.htm>.

A grantee's decision whether to provide service directly or through a contract with another operator will have a significant impact on the complexity of its accounting records. Records for grantees providing service directly will be significantly more complex than those grantees that contract for services with another entity.

Grantees that contract service through competitive procurement are required to maintain and report their own administrative expenses plus amounts paid to the contract operator. Contract operators may continue to use their own accounting system, so long as that system reports financial information in accordance with INDOT's standardized account code structure. If the operator is paid on a fixed unit rate basis, the operator must be able to accurately maintain and report the number of service units provided and the amount of revenue(s) received.

### **Basis of Accounting**

Grantees may use cash, modified cash, or accrual accounting system to maintain financial transactions. However, consistent with FTA circular 9040.1G, INDOT requires all systems to use the accrual basis of accounting when filing quarterly claim reports.

### **Accrual Accounting**

Accrual accounting is both the most difficult and the most accurate of the three financial reporting methods. It follows the principal that recognizes and records expenses when they are incurred and revenues when they are realized (earned), without regard to the time of payment or receipt of cash.

### **Cash Accounting**

Cash basis accounting is the simplest and easiest accounting method to understand. Under this method, **cash flow determines when expenses and revenues are recorded**. In other words, expenses are recorded only when cash is paid and revenues only when cash is received regardless of when incurred or earned.

While simple to understand in comparison to accrual accounting, cash accounting may not accurately reflect the true financial position of the transit organization.

### **Modified Cash Accounting**

The modified cash basis of accounting is a mixture of cash and accrual accounting. Expenses and revenues that result in transactions extending beyond the current year are divided into two parts. The entire portion of the expense or revenue attributable to the current year is immediately recorded as an expense or

revenue (cash accounting). The remaining portion is recorded as either a prepaid expense (asset) or an unearned income (liability), and is deferred and recorded in the next period to which it applies (accrual accounting).

## **PROJECT INVOICING AND REPORTING**

INDOT provides all of the necessary forms for invoicing and reporting. Below are the specific procedures for capital and operating invoicing and reporting.

### **Capital Reimbursements**

This section provides an overview of INDOT procedures for requesting reimbursement of PMTF/Section 5311 capital funds.

Requests for capital reimbursement may be made to INDOT at any time or whenever necessary to assist the grantee in meeting project obligations (*e.g.*, invoices from equipment vendors).

Like operating grants, funds are provided on a reimbursement basis only, meaning that the grantee must incur the expense, as evidenced by documentation from the equipment vendor, and then seek reimbursement from INDOT. Grantees may submit the invoice to INDOT once they receive the vehicle and invoice from the vendor.

The Federal share cannot exceed 80 percent of total costs and cannot exceed the amount specified in the grant award.

PMTF funding is one-half of the non-Federal share of project costs, or an amount equal to LDI (whichever is less).

### **Capital Reports**

Grantees should submit the Capital Financial Status Report along with the Contract Invoice Voucher in seeking reimbursements. Data to complete the Capital Financial Status Report is derived directly from the approved project budget.

A blank copy of the Capital Financial Status Report is available in the Forms Section on the INDOT website,  
<http://www.in.gov/indot/2436.htm>.

### **Operating Reimbursements**

#### **OPERATING FUNDS - REIMBURSEMENT**

This section provides an overview of INDOT's procedures for requesting reimbursement of PMTF/Section 5311 operating funds.

Requests for reimbursements are made to INDOT on a quarterly basis. Grant funds are provided on a reimbursement basis only, meaning that the grantee must incur the expense, and then seek reimbursement from INDOT.

Grantees submit five forms as part of this process:

1. Contract Invoice Voucher;
2. Quarterly Operating Data Report;
3. Quarterly Operating Financial Status Report;
4. "Itemization of Quarterly Expenses"; and
5. Trip Denial Form.

All forms are available in the Forms Section on the INDOT website,  
<http://www.in.gov/indot/2436.htm>.

### **Contract Invoice Voucher**

Quarterly Invoice Vouchers should be accompanied by the grantee's Public Transportation Annual Report data.

### **Quarterly Operating Data Reports**

This form is used to provide transit system operating data to INDOT. Grantees should indicate the transit system name, the calendar year quarter to which the report applies, year, and operating data, by mode of service, for the system. Requested operating data include:

- ◆ Passenger boardings;
- ◆ Total vehicle miles;
- ◆ Revenue vehicle miles;
- ◆ Gallons of fuel used;
- ◆ Number of road calls;
- ◆ Operating income; and
- ◆ Total expenses.

This data must be reported by service mode (fixed route, demand response). Fixed route is transit service that is operated along a prescribed route according to a fixed schedule in accordance with the definition found in 49 CFR Part 37.3, Transportation Services for Individuals with disabilities (ADA),

[http://www.fta.dot.gov/12876\\_3906.html](http://www.fta.dot.gov/12876_3906.html).

Demand response is all other transit service that cannot be defined as fixed route.

Charter service is defined in [49 CFR Part 604](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr604_main_02.tpl), [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr604\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr604_main_02.tpl), as 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. **INDOT exclusively prohibits charter service.** Any one of the following features may be characteristic of charter service:

- ◆ A third party pays the transit provider a negotiated price for the group;

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

Charter is discussed in more detail in **Chapter X**. Again, **INDOT does not allow the provision of ANY charter service**, therefore, grantees should review their service carefully to ensure that none of their service meets the definition of charter.

Rural Transit grantees are required to submit the Quarterly Operating Data Report form to INDOT within 45 days after the conclusion of the quarter. Failure to submit the quarterly operating data report forms may result in INDOT withholding future reimbursement payments.

### **INDOT Operating Report Schedule**

<b>Quarter</b>	<b>Operating Data Report Due Date</b>
January 1 to March 31	May 15
April 1 to June 30	August 15
July 1 to September 30	November 15
October 1 to December 31	February 15

Using the information contained in the quarterly data reports, INDOT develops performance measures, which are provided

to the grantees. INDOT uses these measures for evaluation purposes, such as time trend analyses and to conduct peer group analyses among the rural transit systems. The information from the quarterly reports is also used for compiling the annual report of the transit systems in the state.

### **Quarterly Operating Financial Status Report**

With this report, the grantee provides INDOT with quarterly financial data regarding the system. The report also assists the grantee in determining the appropriate amount of funds to invoice under PMTF/Section 5311.

The form requests information in the following areas:

- ◆ System identification;
- ◆ Total expenses;
- ◆ Operating income;
- ◆ Net expense;
- ◆ Federal share;
- ◆ Local cash grants and reimbursements; and
- ◆ PMTF share.

INDOT will record the Purchase Order Number, Project Number(s) on the form before it is distributed to the grantee.

*Total expenses* for the quarter should be drawn from the grantee's accounting system and represent the total eligible costs for the reporting period. Total expenses must equal total revenues (Operating Income + FTA Share + Local Cash + PMTF) = Total Expense.

*Operating income* represents income from the operation of transit services and includes passenger fares, special fares, other revenues, and contra-expenses. Operating income is deducted from Total Expenses to yield *Net Expense*.

*FTA share* is computed at 50 percent of net expenses (however, at no time may the total FTA reimbursements exceed the contract amount specified by INDOT). The amount computed on this line should be transferred to the Contract Invoice Voucher.

*Local cash grants and reimbursements* are computed based on the monies eligible to be used as match for PMTF, such as taxes levied directly by the transit system, general fund appropriations, unrestricted Federal and/or state funds, and monies not eligible for PMTF match, such as in-kind labor.

State PMTF share is calculated as total expenses minus the Federal share minus contra-expenses minus in-kind labor, divided by 2. Like Section 5311 funding, the total amount of PMTF reimbursement may not exceed the amount specified in the contract. PMTF may not exceed 100 percent of Locally Derived Income (LDI). This amount should also carry over to the Contract Invoice Voucher.

An electronic, unsigned copy of the Quarterly Operating Status Financial Report should be submitted to INDOT with the Contract Invoice Voucher (State Form 3211). Grantees are required to keep the original, signed Contract Invoice Voucher on file.

### **BUDGET REVISION PROCEDURES**

#### **Budget Revisions that Do Not Require INDOT Prior Approval**

Generally, contract amendments are not required for minor changes that will not affect the total amount of the project or affect changes in the scope of the project. Such minor changes include the transfer of funds between approved line items, increases or decreases in line item

quantities, and the addition or deletion of non-major line items.

If the budget revision falls into this category, grantees should notify the Office of Transit when the next invoice is submitted. The grantee should provide INDOT with a revised budget and quarterly line item balances.

### **Budget Revisions that Require INDOT Prior Approval**

Budget changes that are not considered minor and, therefore, require the *prior* approval of INDOT include:

- ◆ The cumulative transfer of funds between line items where the total equals or exceeds ten (10) percent of the total project cost. No transfers are permitted that will cause Section 5311 or State funds to be used for purposes other than those specified in the grant contract;
- ◆ The transfer of funds between indirect and direct line items in operating grants and the transfer of funds between non- construction and construction line items in a capital grant; and
- ◆ The increase or decrease of capital line item quantities.

When the budget revision falls into this category, the grantee should write to INDOT indicating:

- ◆ A detailed description of the changes;
- ◆ Justification for the changes; and,
- ◆ A revised budget in the required format.

INDOT Office of Transit will take action on budget revisions requests within 30 days. The Office of Transit will return a signed copy of the budget revision to the grantee if the request is approved. If disapproved, the Office of Transit will transmit a letter to the

grantee indicating the reasons for disapproval.

### **Budget Revisions that Require Grant Contract Amendment**

A contract amendment is required when the grantee requests a change that represents a major change in scope of the project or when the change will require a change in the amount of Federal and state funds in the project.

Examples of major budget revisions include changing to new construction from acquisition of an existing building for a transit facility. If a grantee is unsure whether the scope of the change constitutes a major or minor change, the grantee should contact INDOT for a determination.

When making budget changes that require a contract amendment, the grantee must request the change in writing, including the following elements in the letter of request:

- ◆ Identify, explain, and justify the changes in scope;
- ◆ Submit a revised budget in the required format; and
- ◆ Identify and verify that additional local match is available (if the change results in a net increase in project cost).

INDOT will review the budget revision and will determine if the change in scope is significant enough to warrant a new public hearing, additional environmental impact determinations, and/or whether additional project documentation is necessary. INDOT approval will be based on the weight of the submitted evidence, the adequacy of the justification, and the availability of funds. Concurrent with the written approval of the revision, INDOT may authorize, under certain conditions, the grantee to proceed

with the revised scope of work prior to execution of the contract amendment.

### **Deadlines for Submission**

Operating grant budget revisions must be submitted with the second quarter operating claim voucher. Capital grant budget revisions must be submitted at least 60 calendar days prior to the end of the grant contract period.

In some circumstances, INDOT may consider a budget revision after the end of the contract period if the revision does not require a contract amendment, and only if:

- ◆ The grantee can demonstrate why the request could not have been submitted in accordance with the deadlines noted above; and
- ◆ There is a sufficient balance of funds in the contract to fund the revision.

### **Audit, Resolution, and Project Close-Out**

Requirements of former OMB Circular A-133 which implemented the provisions of the "Single Audit Act of 1984," and establishing the single annual audit requirement for State/local governments and other public bodies that receive Federal assistance in excess of \$750,000 is now contained in 2 CFR Part 200, the "Super Circular," available for review at [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl).

The purpose of the required audit is to determine whether the grantee:

1. Has prepared financial statements that fairly present its financial position and the results of its financial position and the results of its financial operations in accordance with generally accepted

- accounting principles;
2. Has in place internal accounting and other control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations;
3. Has complied with laws and regulations that may have material effect on its financial statements; and on each of its major Federal assistance programs (as defined according to the sliding scale discussed in 2 CFR Part 200.

The legally authorized auditing body for all grantees is the State Board of Accounts. Grantees that contract with private companies for transit service must require that these companies provide them with their annual audit. The grantee is responsible for reviewing all subcontractors' audit reports and appropriately resolving any findings. The subcontractors' audits must be available for review by INDOT, upon request.

### **Resolution of Audit Findings**

Grantees and subgrantees are responsible for prompt resolution of all audit findings and recommendations. This responsibility requires that the grantee:

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

Deficiencies or opportunities for improvement identified in an audit must be resolved by the grantee. The resolution of audit findings begins with INDOT's report to the grantee and continues until the grantee corrects identified deficiencies, implements needed improvements, or demonstrates

that the findings or recommendations are not valid or do not warrant management action.

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

The status of outstanding audit findings and recommendations should be monitored and reported by the grantee in quarterly progress reports and, where appropriate, significant events reported.

### **Close-Out**

The close-out of a Section 5311 grant will occur after funds are expended and all work activities for the project are completed. INDOT will initiate the project close-out within 90 days after receiving, reviewing, and accepting end of the year project data.

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## CHAPTER VI. PROPERTY MANAGEMENT

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### INTRODUCTION

This section defines property management standards that must be exercised by Section 5311 grantees who purchase and use equipment and real property acquired with Federal funds. It is the responsibility of the grantee to manage the State and Federal capital investment in the system. The grantee must ensure that State and Federal property inventory and disposition procedures are followed.

### VEHICLE & EQUIPMENT USE

#### Use of Project Equipment

Equipment is defined as tangible, non-expendable, personal property having a useful life of more than one year and a unit price of \$300.00 or more.

Typically, equipment includes such items as major spare parts, computer systems, communication system, major maintenance tools, passenger shelters, etc.

Vehicles and equipment shall be used in the program for which it was acquired for as long as it is needed. This is true even if Section 5311 funding does not continue to fund the program. All grantees are required to submit an “annual certificate of use” for all vehicles and equipment acquired under the Section 5311 Program.

The grantee may make vehicles or equipment available for use in other programs or projects currently or previously supported by federal funds. However, this use may not interfere with the work on the

program or project for which it was originally acquired. User fees shall be considered in this situation. Federally funded vehicles and equipment may not be used to provide services for a fee to compete unfairly with private companies.

Adequate maintenance procedures and programs must be developed to keep vehicles and equipment in good working condition. Preventative Maintenance (PM) programs are required for all Section 5311 funded vehicles. INDOT requires a written (PM) Plan for all vehicles. Templates for assisting systems with the development of (PM) Plans and Pre-trip Inspections can be found at [www.indianartap.com](http://www.indianartap.com).

Cleanliness of vehicles is a high priority for INDOT, and a cleaning schedule should be included as part of each grantee’s (PM) Plan. Failure to properly maintain federally funded vehicles may result in a system being denied future capital funding for replacement vehicles.

Section 5311 grantees are not permitted to use FTA-funded vehicles for exclusive school bus or charter service (Refer to **Section X** of this manual).

INDOT prohibits rural transit systems from providing any charter service. Similarly, a grantee may not engage in exclusive school bus service in competition with private school bus operators. INDOT will monitor grantees for compliance with Charter Service and School Bus Operations regulations annually through the Section 5311 application process and its compliance review process.

## **FACILITY CONSTRUCTION AND RENOVATION**

Facility is defined as any building that was constructed in whole or in part with Federal Transit Administration funds. Please refer to **Chapter VIII** for facility and construction requirements and guidance.

## **FACILITY MAINTENANCE PLANS**

Written Facility (and Equipment) Maintenance Plans are required for all FTA-funded facilities. These plans should describe a system of periodic inspections and preventive maintenance to be performed at certain defined intervals.

INDOT has developed and provided a facility maintenance plan template which is available in the Forms Section on the INDOT website, <http://www.in.gov/indot/2436.htm>. However, INDOT encourages all subrecipients to review the template carefully and customize it to meet each subrecipient's individual needs. Refer also to the most recent version of FTA Circular 5010 at [http://www.fta.dot.gov/legislation\\_law/13718.html](http://www.fta.dot.gov/legislation_law/13718.html). (See also **Chapter VIII**.)

## **DISPOSITION**

### **Planned Disposition**

When vehicles, equipment, and/or real property are no longer needed for the original project or program, disposition of said items must be in accordance with Indiana Code (I.C.) 36-1-11, Disposal of Real or Personal Property (<http://www.in.gov/legislative/ic/2010/titl e36/ar1/ch11.html>). Real property is

defined as land and buildings, including any accessories added to the land or buildings.

INDOT must be notified of all disposition actions. Real property and items of equipment with a current per-unit fair market value of less than \$5,000 must be disposed of in accordance with Indiana Code with no further obligation to INDOT. Based on INDOT's useful life policy, vans reaching the threshold of 100,000 miles or four (4) years, INDOT no longer has any financial interest.

Real property and equipment with a current per-unit fair market value of \$5,000 or greater must also be disposed of in accordance with the Indiana Code. However, a written disposition plan must be submitted to INDOT for review. This plan will detail how income from the disposition will be retained by the grantee for the transit program. INDOT will track equipment transfers in Asset Inventory Reports.

## **VEHICLE DISPOSITION**

### **Vehicles with Remaining Useful Life**

The preferred method of disposition is the transfer of vehicles to another INDOT grantee. When INDOT is notified that vehicles are available for disposition, INDOT will mail a notice of availability of these vehicles to all current INDOT grantees and notify FTA of the requested disposition. The vehicles will be available for 30 days for transfer to other INDOT grantees, in accordance with I.C. 36-1-11, (<http://www.in.gov/legislative/ic/2010/titl e36/ar1/ch11.html>). Under a transfer arrangement, the grantee disposing of the vehicles shall receive payment for their pro-rata share of their local investment. This shall be based on the fair market value of the vehicles multiplied by the percent of local

match paid at time of acquisition. If no other grantee is interested in the vehicles, then the grantee may dispose of the vehicle. FTA requires that the proceeds of any disposition actions be used to reduce the gross project cost of any FTA eligible capital transit grants. This arrangement is consistent with I.C. 36-1-11,

<http://www.in.gov/legislative/ic/2010/titl e36/ar1/ch11.html> and the most recent version of FTA Circular 5010 <http://www.fta.dot.gov/13716.html>.

**Mid-Life Sale of Vehicles (“Like-Kind Exchange”)**

Grantees requesting a like-kind exchange must contact INDOT. INDOT will evaluate the request on a case-by-case basis.

The FTA defines “Like-Kind” as a bus for a bus with similar service life. According to the FTA, under the Like-Kind Exchange Policy, proceeds from the vehicle sales are re-invested in acquisition of the like-kind replacement vehicle. If sales proceeds are less than the amount of the Federal interest in the vehicle at the time it is being replaced, the grantee is responsible for providing the difference, along with the grantee’s local share of the cost of the replacement vehicle.

**Rehabilitation of Vehicles**

Due to the size and type of vehicles used in the Section 5311 program, INDOT does not allow vehicles to be rehabilitated as a capital expense.

**Insurance Settlements**

In the event of loss due to accident, casualty, fire, or theft, the insurance settlement may be used toward the replacement of the lost items. If the items are determined to be no longer necessary, then the settlement shall

be used for the transit program. Documented evidence that the settlement is being used for the transit program must be provided to INDOT. An estimate of the insurance settlement must be provided to INDOT to determine settlement value of the items.

**Determination of Fair Market Value**

The fair market value for vehicles and equipment may be determined using straight-line depreciation or by the averaging of two independent appraisals. If straight-line depreciation is used for valuing vehicles, then it should be based on the useful life years specified in Exhibit 2. INDOT recommends that all vans be valued using straight-line depreciation. The fair market value (from independent appraisals) may be used if the vehicle is totaled in an accident or the system is trading the vehicle in before the useful life has been attained.

**Exhibit 1: Vehicle Useful Life Policy Fair Market Value (Using Straight Line Depreciation) Sample**

Vehicle Classification	Miles	Years	Original Purchase Price	Fair Market Value - Straight Line Depreciation Method
Body on Van Chassis	100,000	4	\$50,000	Value decreases by one-fourth of original purchase price - \$0 value after 4 years
Light Duty Bus	150,000	6	\$100,000	Value decreases by one-sixth of original purchase price - \$50,000 value after 3 years
40 Foot Bus	500,000	12	\$220,000	Value decreases by one-twelfth of original purchase price - \$110,000 value after 3 years

INDOT does not allow systems to charge depreciation to the Rural Transit Program. This includes the depreciation of vehicles and equipment purchased with local funds as well as vehicles and equipment purchased with Federal or state funding.

a heavier duty vehicle because it is built on a truck chassis. It is for this reason it is classified separately from a van. This vehicle may require a Commercial Driver's License (CDL) depending on the number of passengers the vehicle was designed to transport.

**PASSENGER VEHICLE CLASSIFICATION AND USEFUL LIFE STANDARDS**

**Vehicle Classification**

INDOT has developed the following passenger vehicle classifications for the Section 5311 program. If a system requests a larger vehicle that is not included in the following list, INDOT must be contacted for further guidance. All vehicles are purchased using INDOT's consolidated purchasing program.

There are four sub-categories for Vans:

- ◆ Mini-Van: Vans with seven passengers or less and which are commercially available from automobile manufacturers as a part of their standard vehicle production line. These vehicles are not wheelchair accessible.
- ◆ Low Floor Minivan A modified minivan is a standard production minivan which has been modified by lowering the floor. It can accommodate up to two wheelchairs and two permanent seats. The vehicle is equipped with a ramp for access by riders using mobility devices.
- ◆ Body on Van Chassis (BOVC) This vehicle is also known as a Light Transit Vehicle (LTV). A passenger vehicle built on a van chassis, BOVC's have wider and/or longer bodies installed on a van chassis. Typically, these vehicles are built by school bus and recreational vehicle manufacturers.
- ◆ Body on Truck Chassis (BOTC): This passenger vehicle is similar to the BOVC in that the body is attached to an existing chassis, however, this vehicle is

**Vehicle Useful Life**

INDOT has developed the following vehicle useful life policy for the purpose of evaluating vehicle disposition requests and capital replacement applications. The useful life policy is shown in Exhibit 2. However, merely obtaining sufficient miles and years on a vehicle does not guarantee federal capital assistance for its replacement.

Section 5311 capital applications are evaluated competitively based on project justification, coordination, fiscal capabilities, and capital project priorities. The primary criterion in determining the vehicle useful life is mileage. The age of the vehicle will be considered only after the vehicle's mileage has been determined to be at or greater than the mileage categories listed below.

**Exhibit 2: Vehicle Useful Life Policy**

	<b><u>Vehicle Classification</u></b>	<b><u>Miles</u></b>	<b><u>Years</u></b>
Vans:			
-	Mini-Van	100,000	4
-	Standard	100,000	4
-	Body on Van Chassis (BOVC)	100,000	4
-	Body on Truck Chassis (BOTC)	150,000	6

The age of the vehicle is calculated from the date the vehicle is actually placed into service, and not from the vehicle model year. On rare occasions, a grantee may have a vehicle that needs replacement prior to reaching its designated mileage. INDOT will

consider these exceptions on a case-by- case basis.

### **Vehicle Replacement Planning**

Grantees are required to develop and submit to INDOT a passenger vehicle replacement plan. The plan shall use the vehicle useful life mileage as the basis for determining the replacement of vehicles. The plan shall cover a five-year period and be updated annually as part of the Section 5311 grant application process. The plan must indicate the number, classification, and the estimated cost of the vehicles to be replaced or added.

Grantees should select replacement vehicles that are appropriate for their service, reviewing the pros and cons for each vehicle selection. INDOT, Indiana RTAP and other program operators can provide their experience with vehicles to assist a grantee with its selection.

If a rural system's service area is included in any urbanized area, then the operating and

capital related improvements must be included in the urbanized area's Transportation Improvement Plan (TIP) which is completed by the Metropolitan Planning Organization (MPO).

### **ADA Vehicle Compliance**

INDOT requires a grantee's fleet to be 50% wheelchair accessible or more. Back-up vehicles must be at the same percentage. However, INDOT encourages a grantee's total fleet to be at least 67% wheelchair accessible.

### **Spare Ratio**

Standard industry practice is to have 20% of the fleet available as back-up. For small systems, with a peak-hour fleet requirement of one to ten vehicles, the spare ratio is two back-up vehicles.

Refer to the Indiana Code 36-1-11  
<http://www.in.gov/sboa/files/Drain18.pdf>.

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## CHAPTER VII. PROCUREMENT

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### INTRODUCTION

On December 26, 2013, the Office of Management and Budget (OMB) issued the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements For Federal Awards.” This publication consolidated virtually all previous grants management guidance and re-codified this material at 2 CFR Part 200. This guidance, in section 2 CFR Part 200.317 through 200.326 address basic procurement standards applicable to all Federal awards, including all INDOT grant awards involving Federal Transit Administration (FTA) funds.

In addition to this overarching guidance, FTA has issued detailed guidance on procurement requirements in the most current version of FTA Circular 4220.1, “Third Party Contracting Guidelines” available at [http://www.fta.dot.gov/legislation\\_law/12349\\_8641.html](http://www.fta.dot.gov/legislation_law/12349_8641.html). This document provides procurement instructions for all FTA grantees and subgrantees that contract with outside sources for goods and services.

The provisions in 2 CFR Part 200 and the most recent version of FTA Circular 4220.1 require grantees to establish local procurement procedures that reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law.

### RESOURCES

There are several resources that will be extremely helpful to ensure that all required procurement rules and laws are followed. A few have already been mentioned, but all are

described below along with their appropriate web link.

#### **FTA Circular 4220.1**

As a subrecipient of funding under 49 U.S.C. § 5311, grantees are held to a number of FTA-specific and other Federal requirements. For third party contracting or significant capital purchases or facility construction or renovation, grantees must follow the guidance set forth in the most recent version of FTA Circular 4220.1. Grantees which are local governmental entities may follow their own local procedures, provided that, at a minimum, the basic requirements in this circular are met. Designated grantees which are private nonprofit entities must follow FTA Circular 4220.1.

#### **2 CFR Part 200**

This document provides guidance on pre- and post- grant award requirements, definition of key grants management terms, cost allowability principles, indirect cost allocation practices, uniform management requirements for all Federal grants, and audit. This document is available from the Government Printing Office at <https://www.federalregister.gov/articles/2013/12/26/2013-30465/uniform-administrative-requirements-cost-principles-and-audit-requirements-for-federal-awards>.

#### **Procurement Pro**

National RTAP offers a free web-based application, Procurement Pro (Pro), which “walks” grantees through the steps needed to determine the Federal clauses and

certifications that must be included in procurement documents for a Federally-funded project. In return you will receive a document that includes all current required Federal clauses and certifications for each type of procurement. Pro is intended to be used as procurement tool to assist the user in building a complete procurement, but in order to do this, the user must supply its own supporting documentation. Pro provides checklists and templates to help the user build a complete procurement package. INDOT recommends grantees use Pro to download the updated Federal clauses and certifications. It is the grantee's choice to use whatever procurement system that complies with all Federal, State and local requirements. To use Pro download the following user starter guide:

<http://demopro.nationalrtap.org/emailResource.aspx?design=1&fileid=875>  
<http://webbuilder.nationalrtap.org/WebApps/ProcurementPRO.aspx>:

### **FTA Best Practices Procurement Manual**

FTA has compiled a series of Federal and/or grantee procurement practices that have proven to be effective over the years and has published them in the *FTA Best Practices Procurement Manual*. The Manual presents these best practices for the assistance and guidance of the local grantee; procedures and practices presented in the *Manual* are not mandatory unless identified as such. These best practices are meant to be informative and helpful and are offered for the guidance and assistance. However, it is also recognized that there may be local, unique situations that precludes a grantee from adopting the procedures of another grantee in a certain area. Rural transit grantees are encouraged to refer to the Manual as they prepare documents for, and conduct, their procurements. FTA's Manual is available at

[http://www.fta.dot.gov/grants/13054\\_6037.html](http://www.fta.dot.gov/grants/13054_6037.html).

### **FTA Buy America Regulations**

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

[http://www.fta.dot.gov/legislation\\_law/12921.html](http://www.fta.dot.gov/legislation_law/12921.html) for more information.

### **Procurement Checklists**

INDOT has developed two procurement checklists to help ensure that all procurement processes have been completed and documented. These checklists, INDOT Pre-Solicitation Checklist and INDOT Pre-Award Checklist, are available from the Forms Section on the INDOT website,

<http://www.in.gov/indot/2436.htm>.

### **PROCUREMENT POLICY**

In order to be in compliance with the most recent version of FTA Circular 4220.1 grantees must prepare a written procurement policy and procedures (INDOT has developed a procurement policy template which may be downloaded from the Indiana RTAP website at [www.indianartap.com](http://www.indianartap.com)).

A grantee may adopt local (city or county) procurement procedures as long as they contain the provisions listed in this chapter.

Further, all procurements must also be conducted in accordance with Indiana Code (I.C.) 5-22-7 Competitive Bidding. (<http://www.in.gov/legislative/ic/2004/titl e5/ar22/ch7.html>).

## **REQUIRED PROCUREMENT STANDARDS**

Consistent with Federal requirements as contained in the most recent version of FTA Circular 4220.1, INDOT has set a maximum period of performance of four (4) years for all subrecipient third party contracts, such as property, including rolling stock, services, leases, construction, revenue, etc.

Specifically, INDOT's and Section 5311 procurement practices will comply with five Federal requirements, which include:

1. For rolling stock, a five year limitation on contract period of performance;
2. A requirement for full and open competition;
3. A prohibition against geographic preferences;
4. The use of Brooks Act procedures for procurement of architectural and engineering services if INDOT has not adopted a statute governing procurement of such services; and
5. Inclusion in contracts of all Federal clauses required by Federal statutes and Executive Orders and their implementing regulations.

### **Standards**

- ◆ **Competition:** All procurements will be conducted in a manner providing for full and open competition.
- ◆ **Code of Conduct:** Grantees must have a written code of conduct governing the

performance of their employees engaged in the award and administration of contracts. Employees of the grantee shall not participate in selection, award, or administration of contract supported by federal and state funds if a conflict of interest, real or apparent, is involved.

- ◆ **Purchase Review:** Grantees must develop a process for reviewing purchases to avoid unnecessary and duplicate items. Consideration must be given to the most economical approach. Where appropriate, an analysis of lease versus purchase shall be made. All grantees are encouraged to use intergovernmental agreements, where possible.
- ◆ **Contract Cost and Price Analysis for Every Procurement Action:** Grantees shall perform a price or cost analysis with every procurement, including contract modifications. As a starting point, the grantee must make an independent estimate before receiving bids or proposals. Usually a price analysis will be used to determine the reasonableness of the proposed contract price. This may also be established based on the catalog or market price of products sold in substantial quantities to the public, or based on price set by law. A cost analysis is required when the bidder is required to submit the cost elements of his estimated price (e.g., under professional service contracts such as, consulting or architectural and engineering). Also, a cost analysis is necessary when adequate price competition is lacking and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or on the basis of

prices set by law or regulation. [FTA C 4220.1F, VI, 6.]

The process for developing an Independent Cost Estimate will vary depending on the nature of the procurement. For construction projects, the engineering firm preparing the designs and specifications will usually be able to provide a cost estimate. For purchases, such as vehicles, software or equipment, a variety of sources can be considered. For more standardized items, pricing research can be conducted by seeking publically available cost information, such as pricing information provided by suppliers of similar products. For more specialized purchases, such as specialized transit software or vehicles with special equipment, the staff conducting the procurement can seek cost information from other transit agencies which may have recently made similar purchases. For services to be performed on an hourly rate basis, recent past internal procurement rate information for similar services, or information from other transit agencies who have secured similar services may be used. In all instances, the Independent Cost Estimate should provide a reasonably accurate summary of the expected costs of the items or services procured, using recent or current cost information, so that an accurate cost or price analysis can be conducted once proposals or bids have been received.

For additional information, refer to Section 5.2 of the FTA's Best Practices Procurement Manual.

- ◆ Profit: Grantees must negotiate profit as a separate element of the price for each

contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. [FTA C 4220.1F, VI, 6.a.(3)]

- ◆ Federal Cost Principles: Costs or prices based on estimated costs for grant contracts will be allowable only to the extent that costs incurred of cost estimates included in negotiated prices are consistent with Federal cost principles. Grantees may reference their own cost principles that comply with applicable Federal cost principles.
- ◆ Required Federal and State Clauses: All procurements and resulting contracts must include all required federal and state clauses. Copies of these clauses are made available to the Grantees in the Section 5311 grant application and further identified in the Section 5311 grant assistance contracts between INDOT and its grantees.
- ◆ Contract Awards to Responsible Vendors: Grantees may only award contracts to responsible contractors possessing the ability, willingness, and integrity to perform successfully under the terms and conditions of the contract and who demonstrate that its proposed subcontractors also qualify as responsible. Grantees must consider such matters as contractor integrity, compliance with public policy, record of past performance and financial and technical resources when making a determination of contractor responsibility. Grantees must also ensure that the contractor is not listed as a debarred or suspended contractor

on the System for Award Management (SAM), which is maintained by the General Services Administration (GSA), at the time of contract award. Entities that are listed as debarred or suspended contractors on SAM may not be determined to be responsible contractors by the grantee.

To designate a prospective contractor “responsible” as required by 49 U.S.C. § 5325, grantees, at a minimum, must 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:

- Integrity and Ethics – Has a satisfactory record of integrity and business ethics, in compliance with 49 U.S.C. Section 5325(j)(2)(A).
- Debarment and Suspension – Is 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.
- Affirmative Action and DBE – Is in compliance with the Common Grant Rules’ affirmative action and FTA’s Disadvantaged Business Enterprise requirements.
- Public Policy – Is in compliance with the public policies of the Federal Government, as required by 49 U.S.C. § Section 5325(j)(2)(B).
- Administrative and Technical Capacity – Has the necessary

organization, experience, accounting, and operational controls, and technical skills, or the ability to obtain them, in compliance with 49 U.S.C. Section 5325(j)(2)(D).

- Licensing and Taxes – Is in compliance with applicable licensing and tax laws and regulations.
- Financial Resources – Has, or can obtain, sufficient financial resources to perform the contract, as required by 49 U.S.C. Section 5325(j)(2)(D).
- Production Capability – Has, or can obtain, the necessary production, construction, and technical equipment and facilities.
- Timeliness – Is able to comply with the required delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.
- Performance Record – Is able to provide a:
  - Current Performance – Satisfactory current performance record; and
  - Past Performance – Satisfactory past performance record in view of its records of long-time performance or performance with a predecessor entity, including:
    - Sufficient Resources. Key personnel with adequate experience, a

parent firm with adequate resources and experience, and key subcontractors with adequate experience and past performance,

- Adequate Past Experience. Past experience in carrying out similar work with particular attention to management approach, staffing, timeliness, technical success, budgetary controls, and other specialized considerations as described in the recipient's solicitation, and
- Any Past Deficiencies Not the Fault of the Bidder or Offeror. A prospective bidder or offeror that is or recently has been seriously deficient in contract performance is presumed to be non-responsible, unless the recipient determines that the circumstances were properly beyond the bidder or offeror's control, or unless the bidder or offeror has taken appropriate corrective action. Past failure to apply sufficient tenacity, perseverance, and effort to perform acceptably is strong

evidence of non-responsibility. Failure to meet the quality requirements of a contract is a significant factor to consider in determining satisfactory performance. INDOT expects each grantee to consider the number of the bidder or offeror's contracts involved and the extent of deficient performance in each contract when making this determination.

- ◆ Contract Administration: Grantees must maintain a contract administration system, which ensures that contractors perform in accordance with the terms, conditions, and specifications of all purchases.
- ◆ Contract Records: Grantees shall maintain records to sufficiently detail the procurement history. At a minimum this should include the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- ◆ Disputes and Protests: Grantees are responsible for resolving all contractual and administrative issues arising out of procurement. Violations of law should be referred to the proper local authority having jurisdiction. If there is no local authority, the matter should be referred to INDOT. Grantees must have protest procedures to handle and resolve disputes relating to their procurement. A protestor must exhaust all administrative remedies with the

grantee before pursuing protest with INDOT.

## **METHODS OF PROCUREMENT**

Most purchases and leases (procurement) made under the Section 5311 program will be made through Sealed Bid (formal advertising) method. All procurements must be conducted in accordance with Indiana Code (I.C.) 5-22-7 Competitive Bidding. (<http://www.in.gov/legislative/ic/2004/title5/ar22/ch7.html>).

### **Micro-Purchases – Threshold: \$0 - \$2,999**

An exception to the formal procurement method is the case of purchases under \$3,000 (i.e., micro-purchases), or other lower threshold that grantees may set as they deem appropriate for purchases. Purchases below that threshold may be made without obtaining competitive quotations.

For micro-purchases, INDOT requires the grantee to, at a minimum, justify that the price for the procurement is fair and reasonable, and maintain written documentation about how that determination was derived. INDOT believes that determination may be completed quickly and efficiently in several ways. One possible method would be for the official tasked to review and authorize payment of a bill to annotate a finding such as “I have examined the expenditures reflected on this bill and determine that each reflects a reasonable price based on market price offered by vendors to the general public.”

### **Small Purchases – \$3,000 - \$150,000**

Purchases and leases of \$3,000 up to \$150,000 or more are considered small purchases, therefore, relatively simple and

informal procurement methods may be used. Small purchase procurement requires inclusion and acceptance of applicable federal clauses. The Request for Quotations Form Template that includes all of the required clauses can be found at <http://www.in.gov/indot/2436.htm>.

If the grantee has small purchases procedures which meet the intent of I.C. 5-22-8 (<http://www.in.gov/legislative/ic/archive/2012/ic/2012/title5/ar22/ch8.html>), or which are stricter, then the grantee’s procedures may be followed. If the grantee does not have small purchase procedures, then they may invite quotes from at least three vendors known to deal in the type of purchase or lease being made. A copy of the specification should be mailed to the vendor not less than seven days before the deadline for receiving written quotes.

A quotation should be solicited from other than the previous supplier before placing a repeat order. Whether quotations are solicited orally or in writing, the purchase record file should contain the following abstract information:

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

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

### **Invitation For Bids (IFBs) –Procurement by Sealed Bids: Over \$150,000**

State law (I.C. 5-22-7 – <http://www.in.gov/legislative/ic/2004/title5/ar22/ch7.html>) requires purchasing by IFB, or Sealed Bids, for purchases and leases over \$150,000. The formal advertisement notice must be published in accordance with I.C. 5-3-1 Publication of Notices (<http://www.in.gov/legislative/ic/2004/titl5/ar3/ch1.html>). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the lowest responsible, responsive bidder. In addition to the published notice, INDOT strongly recommends direct solicitation to known vendors.

The grantee is responsible for preparing the bid contract and specification, advertising and soliciting bids, receiving and reviewing bids, and awarding the contract to the lowest responsible and responsive bidder. Bids will be opened only at a time and place listed in the solicitation, and at least one (1) witness must be present. **The solicitation documents must include detailed information on the location and time of the public bid opening information, and any access requirements at the location.**

An exception to the sealed bid requirement is for the solicitation of professional services. This is described in the request for proposals (RFP) method of procurement.

### **Request for Proposals-Procurement By Competitive Proposals**

A Request For Proposals (RFP) is the method generally used when conditions are not appropriate for the use of sealed bids and when it is allowed by State law I.C. 5-22-9– (<http://iga.in.gov/legislative/laws/2015/ic/>

[titles/005/](https://iga.in.gov/legislative/laws/2015/ic/titles/005/)). One situation mentioned earlier is for the development of specifications. Also, a grantee may use the RFP method for the procurement of architectural, engineering, program management, construction management, planning and feasibility studies, and land surveying services. Services of architects, engineers, and land surveyors must be procured in accordance with I.C. 5-16-11.1

(<https://iga.in.gov/legislative/laws/2015/ic/titles/005/>).

If the RFP method is used, the following requirements apply:

- ◆ The request must identify all evaluation factors and their relative importance, including cost as a factor. Please note that cost may not be used as an evaluation factor for architectural and engineering services, in accordance with the Brooks' Amendment;
- ◆ Any bonding requirements or other evidence of financial responsibility;
- ◆ Solicitation of an adequate number of qualified vendors;
- ◆ Grantee must have a written method for conducting technical evaluation for the proposals; and
- ◆ Contract award will be made to the responsible vendor whose proposal is determined in writing to be the most advantageous to the program.

### **Sole Source Procurement**

When a grantee requires products or services available from only one responsible source, and no other products or services will satisfy its requirements, a grantee may make a sole source award with the prior approval of INDOT. Sole source awards are only appropriate when one of the following conditions apply:

- ◆ Unique Capability or Availability – The products or services are available from

only one source if one of the conditions described below is present:

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

In addition, when a grantee requires an existing contractor to make a change to its contract that is beyond the scope of that contract, the grantee must treat the changes

as if the grantee has made a sole source award that must be justified.

INDOT must review and approve all sole source procurements prior to any contract award.

## **PRE-AWARD AND POST-DELIVERY AUDITS OF VEHICLE PURCHASES**

It is INDOT’s responsibility to conduct a pre-award and post-delivery audit of vehicles purchased with FTA funds. The three sections of both audits are: Buy America, Bid Specifications, and Federal Motor Vehicle Safety Standards. Documentation of all pre-award and post- delivery audits is maintained by INDOT. Grantees may request a copy of the documentation from INDOT for their files.

### **Pre-Award Audits**

INDOT must ensure that audits are complete before the grantee enters into a formal purchase contract for vehicles.

### **Buy America**

For vehicle purchases in excess of \$100,000, INDOT must review documentation from the bidder as to the cost of the vehicle’s major components and primary sub-components, their country of origin, the location of final assembly, and any activities that will take place at the location (49 CFR Part 661, <http://www.gpo.gov/fdsys/granule/CFR-2012-title49-vol7/CFR-2012-title49-vol7-part661/content-detail.html>). Cost information is used to determine whether a vehicle meets the Buy America regulation and that 60% of the vehicles’ components are domestically produced. All information resulting from this audit must be kept on file by INDOT. It will be made available to the grantee, upon request.

If the vehicle does not have to meet Buy America regulations, then INDOT must have the Federal waiver letter on file.

This audit cannot be performed by the bidder or manufacturer. INDOT must conduct the necessary review and certification or hire an independent third party contractor to conduct the review and certification.

### **Bid Specifications**

INDOT must assure that the vehicle(s) proposed is the same vehicles(s) as described in the bid specifications. Also, INDOT must certify that the bidder is a “responsive manufacturer with the capability to produce” the specified vehicle.

When the purchase is for eleven or more vehicles for a single recipient, INDOT must also provide a resident inspector on-site where the vehicles are being manufactured. This inspector must certify that he or she was on-site throughout the manufacturing process, monitored the vehicles’ manufacturing, and must prepare a report about the manufacturing process.

### **Federal Motor Vehicle Safety Standards (FMVSS)**

If the vehicles being purchased are subject to FMVSS, INDOT must ask for a certification from the bidder stating that the vehicles being acquired meet all applicable standards. The bidder’s self-certification must be kept on file at INDOT.

If the vehicles are not subject to FMVSS, the bidder must provide certification stating this. This certification must also be kept on file by INDOT. Therefore, the burden of proof

is on the bidder to comply with this regulation.

### **Post-delivery Audits**

INDOT must ensure that audits are completed before vehicle titles are transferred to the grantee.

### **Buy America**

This is a certification that Buy America regulations (after change orders or other revisions) are still being met. If the vehicle does not have to meet Buy America regulations, then INDOT must have the waiver letter on file.

### **Federal Motor Vehicle Safety Standards**

INDOT must maintain on file the FMVSS certification by the bidder. If the vehicle(s) is not subject to FMVSS, then INDOT must maintain on file the bidder’s certification that FMVSS do not apply.

### **Bus Testing**

Any new bus model must be tested at the FTA test facility in Altoona, Pennsylvania in accordance with Federal regulation 49 CFR Part 665

[\[http://www.gpo.gov/fdsys/granule/CFR-2012-title49-vol7/CFR-2012-title49-vol7-part665/content-detail.html\]](http://www.gpo.gov/fdsys/granule/CFR-2012-title49-vol7/CFR-2012-title49-vol7-part665/content-detail.html). This

requirement covers all medium and heavy duty body-on-chassis and purpose built buses of 25 feet or greater. INDOT must require that the bidder/manufacturer provide the testing report before final acceptance of the vehicle(s). It is INDOT’s responsibility in dealing with the bidder/manufacturer to determine if the vehicle is subject to these requirements. The cost of testing is paid for by FTA and the manufacturer.

## **Written Procurement Selection Procedures**

INDOT requires grantees to maintain written records detailing the history of each procurement, including:

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

## **REQUIRED CONTRACT CLAUSES**

Adequate terms and conditions must be present in every contract. The purchasing and contracting staff should meet with grant and legal personnel to determine the appropriate clauses to be included in third party contracts based on the information contained in the most recent version of FTA

Circular 9040.1 for the Section 5311 Program, <http://www.fta.dot.gov/13716.html>, the grant agreement between INDOT and the grantee, and any statutory or regulatory requirements required by INDOT. These contract clauses include, but are not limited to, required contract clauses. Please note that Section 5311 grantees are responsible for ensuring that all required contract clauses are included. One method of doing this is to use the National RTAP's free web-based application "Procurement Pro." This user-friendly web application takes grantees through the steps needed to determine the Federal clauses and certifications that must be included in procurement documents for a Federally-funded project. In return, grantees receive a document that includes all required Federal clauses and certifications as well as other documentation, such as checklists and templates, to help manage the procurement process. To access this application, go to <http://www.nationalrtap.org/WebApps/ProcurementPro.aspx>.

## **Remedies for Breach of Contract**

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

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

## **Contract Termination**

All contracts exceeding \$10,000 must include provisions that stipulate the conditions under which the grantee may

terminate the contract for either default or convenience.

In a termination for default, the contractor must fail to comply with certain terms and conditions of the contract. The contractor is paid only for supplies delivered and accepted by the grantee or for the services performed in agreement with the grantee.

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

#### **Equal Employment Opportunity (EEO)**

All contracts exceeding \$10,000 must include a clause which requires the contractor to take positive action to ensure that persons employed or seeking employment are treated without bias regarding race, religion, color, sex, sexual orientation, gender identity or national origin. Federal and State EEO requirements require the contractor to post notices to this effect in conspicuous locations within the plant or worksite. EEO conditions must be stated in all RFPs and IFBs issued by the grantee.

#### **Copeland Anti-Kickback**

All construction or repair contracts must include provisions which require the contractor to comply with the Copeland Anti-Kickback Act which prohibits the contractor from inducing anyone employed on the project to give up any portion of their pay. Further, the provision requires the

grantee to report all suspected or reported violations.

#### **Davis-Bacon Act**

All construction contracts exceeding \$2,000 must stipulate that the contractor will pay all laborers and mechanics employed on the project at least once a week at a rate not less than the minimum wage specified in the wage determination formally issued by the Secretary Of Labor. A copy of this determination is to be included in each solicitation, and the award of the contract is conditional, pending the contractor's acceptance of the terms of the wage determination schedule. Further, grantees are required to report all suspected or reported violations.

#### **Contract Work Hours and Safety Standard Acts**

All construction contracts exceeding \$2,000 and all other contracts exceeding \$2,500 that employ laborers and mechanics must include a provision requiring the contractor to pay the mechanics and laborers on the basis of a standard 8-hour workday and a 40-hour workweek. Any work in excess of 8 hours a day or 40 hours a week must be compensated at a rate not less than 1.5 times the worker's base rate. In addition, no workers will be required to work in surroundings or working conditions that are unsanitary, hazardous or dangerous as determined under the standards established by the Secretary of Labor.

#### **Discovery and Invention/Patent Rights**

Any research, development, experimental or demonstration contract must include a provision stipulating FTA's requirements and regulations regarding all patent rights, copyrights and rights to data related to any

discovery or invention made by the contractor.

### **Access to Contractor's Records**

All negotiated contracts, except small purchases, must include a provision stipulating that the grantee, INDOT, FTA, Comptroller General, or any authorized agent of these four parties, are to be granted access to any of the contractor's books, documents, papers, and records directly related to the contract. The contractor must maintain all records for three years following contract closeout to allow for audits, examinations, excerpts and transcriptions of the contractor's files.

### **Clean Air and Clean Water Acts**

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

### **Energy Efficiency**

All contracts must recognize the mandatory standards and policies relating to energy efficiency that are contained in Indiana's Energy Policy. That policy is outlined in the state's strategic energy plan, Hoosier Homegrown Energy.

### **Disadvantaged Business Enterprise**

All contracts must include a provision which stipulates that the contractor will take affirmative steps to assure that disadvantaged businesses are utilized

whenever possible as sources of supplies, equipment, construction and services, including the following actions:

- ◆ Placing qualified disadvantaged businesses on solicitation lists;
- ◆ Assuring that disadvantaged businesses are solicited whenever they are potential sources;
- ◆ Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by disadvantaged businesses;
- ◆ Establishing delivery schedules, where the procurement requirements permit, that encourage participation by disadvantaged businesses;
- ◆ Using the services and assistance of the Office of Disadvantaged Business Enterprise of the Department of Transportation, Division of Economic Opportunity; and
- ◆ Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

### **Cargo Preference**

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

### **Bonding**

For construction or facility improvement contracts or subcontracts exceeding

\$100,000, INDOT may accept the bonding policy and requirements of the grantee, provided INDOT determined that the policy and requirements adequately protect the Federal interests. FTA has established the following minimum criteria:

- ◆ A bid guarantee from each bidder equal to 5% of the bid price;
- ◆ A performance bond for 100% of the contract price; and
- ◆ A payment bond for 50% payment of the contract price if the contract is not more than \$1 million; 40% if the contract price is more than \$1 million but not more than \$5 million; or, \$2.5 million if the contract price is more than \$5 million.

A grantee must seek INDOT approval of its bonding policy and requirements if it does not comply with these criteria.

### **Compliance with Laws and Permits**

The Contractor shall give all notices and comply with all existing and future federal, state, and municipal laws, ordinances, rules, regulations, and orders of any public authority bearing on the performance of the contract, including, but not limited to, the laws referred to in these provision of the contract and other contract documents. If the contract documents are at a variance therewith in any respect, any necessary changes shall be incorporated by appropriate modification. Upon request, the Contractor shall furnish all certificates of

compliance with all such laws, order, and regulations.

### **Other Contract Clauses**

The grantee must be aware of other Federal and State regulations or laws that may affect the contractual relationship with the contractor. For example, Drug & Alcohol Testing, Bloodborne Pathogens, and ADA requirements may affect the contract.

### **PROCUREMENT PLANNING AND INDOT REVIEW**

All bid contracts, IFBs and RFPs for purchases or leases of \$150,000 or greater must be submitted to INDOT for review. In addition, grantees must make all technical specifications available for review, when INDOT believes such a review is needed to ensure that the purchase or lease specified is consistent with grant award.

It is the responsibility of the grantee to include INDOT concurrence requirements into the procurement schedule. While INDOT will attempt to respond to each request as soon as possible, grantees should allow eight weeks to receive INDOT' s pre-bid concurrence.

Also, grantees must make available all procurement documentation upon request by INDOT.

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## CHAPTER VIII. FACILITY CONSTRUCTION AND RENOVATION GUIDELINES

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### INTRODUCTION

As addressed in **Chapter III** of this manual, the acquisition, construction or renovation of transit facilities including design, engineering, and land acquisition are eligible expenses under the Section 5311 Program. Section 5311 funds may be used to fund up to 80 percent of the net capital cost of the facility improvement or acquisition. Due to the limited funding available in any given fiscal year, INDOT reserves the right to limit the number and type of facility projects to be considered for financial assistance.

Transit facilities are defined as:

- ◆ Facilities that support transit operations, such as administrative buildings, maintenance garages and vehicle storage buildings; and facilities that provide passenger amenities such as bus terminals, stations, shelters and park-and-ride lots.

Facility projects are required to adhere to the same Federal policies that apply to other capital procurements as addressed in the Procurement Section of this Manual. For facility projects, due to their complexity and project variety, there is no single Federal document that provides all the information that is needed to comply with all the regulations. The following FTA documents provide valuable information regarding FTA-assisted facility projects. *(Note that the most recent versions of each of these circulars are 9040.1G, 4220.1F, and 9300.1B, respectively. The links will take you to the FTA Circular page, where you will then click on the appropriate circular and it will take you to the most recent version available at that time.)*

- ◆ FTA Circular 9040.1 – Nonurbanized Area Formula Program Guidance and Grant Application Instructions, available at [http://www.fta.dot.gov/legislation\\_law/13718.html](http://www.fta.dot.gov/legislation_law/13718.html).
- ◆ FTA Circular 4220.1 - Third Party Contracting Guidance, available at [http://www.fta.dot.gov/legislation\\_law/13718.html](http://www.fta.dot.gov/legislation_law/13718.html).
- ◆ FTA Circular 9300.1 - Capital Investment Program Guidance and Application Instructions, available at [http://www.fta.dot.gov/legislation\\_law/13718.html](http://www.fta.dot.gov/legislation_law/13718.html).
- ◆ Best Practices Procurement Manual - Prepared to assist grantee in meeting standards of FTA Circular 4220.1F, available at [www.fta.dot.gov](http://www.fta.dot.gov) - Go to Reports/Publications, click on Other Reports.
- ◆ FTA Construction Project Management Handbook, most recent update September 2009, <http://www.fta.dot.gov/documents/FTA-CONSTRUCTION-PRJT-MGMT-HDBK2009.pdf>.
- ◆ 23 CFR part 771 - Environmental Impact and Related Procedures, available at [http://www.fta.dot.gov/documents/N\\_EPA\\_reg\\_clean.pdf](http://www.fta.dot.gov/documents/N_EPA_reg_clean.pdf).

### **Project Planning and Implementation**

There are three primary types of facility projects: 1) new construction, 2) purchase and renovation/improvement of an existing facility, and 3) renovations/improvements

to existing facilities. Improvements or renovation include expansion, maintenance, repair and remodeling of an existing facility. All facility projects will require an INDOT review of the project plan and/or a Facility Feasibility Study. Further information regarding this requirement is addressed later in this chapter. The required step-by-step process for all facility projects is presented below.

## **STEP-BY-STEP PROCESS**

### **Step 1: Feasibility Stage**

The applicant should hold initial discussions with local governments and other program supporters to determine the need for the proposed project. Local and regional planning documents should be analyzed to determine if the project supports the local goals and objectives. Discussions could include such issues as opportunities for purchasing an existing facility for renovation, availability of land for construction of a new facility, and appropriate opportunities to share the proposed facility with another transit system or government agency. Further, the applicant should document the current facility conditions of the transit system and how the project would improve these conditions, the need for the facility improvement(s), and a description of the proposed facility project.

### **Step 2: Feasibility Analysis**

It is recommended that the transit system director consult with INDOT staff regarding facility needs well in advance of the Section 5311 application period. This will allow time for a determination to be made of the merits of the proposed project, determination of whether the project is considered major or

minor in scope, and enable the applicant to apply for Section 5311 funding.

It is the general policy of FTA to provide financial assistance for transit facilities that are adequate for the applicant's present needs and realistically address future growth. In those situations where land acquisition is required, it may be justifiable to procure enough land to meet future expansion needs.

For those proposed projects that would require considerable new construction such as the construction of a new administrative and maintenance facility or purchasing an existing building for renovation into a transit facility, a Facility Feasibility Study would be required to determine the merits of the project, clearly define the project, and determine its estimated cost. It is important that the current and anticipated spatial needs of a transit system be determined prior to initiating construction. Elements would include the following:

- ◆ A determination of transit demand and other use;
- ◆ An evaluation of existing facilities or sites to satisfy existing and future transit needs;
- ◆ Evaluation and selection of preferred site(s) if a new facility is warranted;
- ◆ Preliminary concept design including space needs, circulation, and facility components;
- ◆ Cost estimate of the transit facility and financing plan; and,
- ◆ Operating cost estimate of new or renovated facility.

An outline of the scope of work for a Facility Feasibility Study is available on the INDOT website in the Forms section at can be found at <http://www.in.gov/indot/2436.htm>. Typically approximately six months should be allowed for completion of the study.

Planning funds are available for preparation of the study at an 80 percent federal participation level. The subrecipient should consult with INDOT staff regarding the need to conduct a Facility Feasibility Study.

At the conclusion of the feasibility step, all project documentation must be submitted to INDOT.

**INDOT Oversight Action:** At this point in the study process, all project descriptive material, feasibility analyses, and cost estimates must be submitted to INDOT for review and approval. INDOT staff will review the proposed project (or use the services of its technical assistance consultant to critically evaluate the feasibility analysis) and project cost estimates. If the project is deemed feasible and that funding is likely to be available for the project, INDOT will formally authorize the applicant to proceed with the environmental phase of the project.

### **Step 3: Designation of Project Manager**

If INDOT approves a project under Step 2, the applicant at this point must identify a proposed Project Manager who will have responsibility for oversight of the project from concept initial land acquisition (if applicable) to project completion.

This individual must possess the requisite capabilities and/or have the relevant project experience in procurement of architectural/engineering services to bidding and construction management.

If these services do not exist within the applicant's organization, the applicant may utilize the services of other governmental personnel (*e.g.*, a nonprofit operator may utilize the services of a County Engineer). If these services cannot be obtained locally, then the project application must contain a

request to procure these services through a third party contracting arrangement.

**INDOT Oversight Action:** The applicant must submit a resume and a history of the proposed Project Manager's qualifications for approval to INDOT prior to proceeding to the application phase. INDOT must approve the qualifications of the proposed Project Manager and/or concur in the applicant's decision to procure these services through third party contracting.

### **Step 4: Project Application**

Contingent upon the determination to proceed with the project, the eligible applicant should proceed with development of the project application through the process identified in **Chapter IV** of this manual. The necessary procedures include application for planning funds to conduct a Facility Feasibility Study and/or facility construction funds. Note that if land purchase is required prior to facility construction, it may be necessary to request funds in different phases/stages of the project such as the land acquisition, facility design and construction phases.

### **Step 5: INDOT Review of the Project Application**

INDOT has established the following selection criteria for consideration of facility projects to be recommended for funding with Section 5311 funds.

#### **New Construction**

- ◆ Presentation of deed of site ownership by grantee;
- ◆ Condition of existing facility and utility for future needs;
- ◆ Anticipated system growth;
- ◆ Justification for requested size facility;

- ◆ System operational performance;
- ◆ Local financial support of transit system;
- ◆ Local agency support of system;
- ◆ Local/regional transit coordination status;
- ◆ System compliance with federal/state regulations;
- ◆ Impact on system operations;
- ◆ Cost analysis/effectiveness of new facility;
- ◆ Accommodates future expansion needs;
- ◆ Capability of grantee to manage project;
- ◆ Implementation timeline; and
- ◆ Project listed in TIP, if applicable, and STIP

**Expansion of Existing Facility**

- ◆ Presentation of deed of facility ownership by grantee;
- ◆ Justification for facility expansion;
- ◆ Anticipated system growth;
- ◆ Impact on system operations;
- ◆ Cost effectiveness of expansion;
- ◆ Allows operations to continue during construction;
- ◆ Capability of grantee to manage project;
- ◆ Implementation timeline; and
- ◆ Project listed in TIP, if applicable, and STIP

**Renovation/Rehabilitation**

- ◆ Presentation of deed of facility ownership by grantee;
- ◆ Structural soundness of existing facility;
- ◆ Justification for facility modification;
- ◆ Cost effectiveness of improvements;
- ◆ Implementation timeline; and
- ◆ Project listed in TIP, if applicable, and STIP

The award of facility project grants will be based on funding availability and INDOT project evaluation criteria.

**INDOT Oversight Action:** INDOT will take a formal approval action on the project application. Contracts and notice to proceed with implementation will be issued by INDOT, outlining the terms and conditions that will govern the applicant’s implementation of the project.

INDOT authorization and contracting authority will be conducted in phases, as follows:

1. Environmental Assessments
2. Design
3. Construction

A project cannot proceed to a phase unless INDOT has concurred with the actions of the preceding phase.

**Step 6: Phase I Site Assessment (optional)**

If the proposed project requires the applicant to acquire land in order to construct a new facility, INDOT may request that the applicant conduct a Phase 1 Site Assessment of the preferred property/site. The purpose of this assessment is to identify potential or existing environmental contamination liabilities that may be associated with the site. If such problems are identified with an applicant’s preferred site, it is generally advised that such sites be excluded from consideration for a Federally-assisted transit project under the INDOT Section 5311 program (as mitigation measures may not make the project feasible from a cost perspective).

**INDOT Oversight Action:** INDOT will take a formal concurrence action on the Phase I Site Assessment report before the grantee/operator may proceed with any land acquisition activities.

## **Step 7: Environmental Process**

FTA's environmental review process has two primary objectives: to fully disclose the probable environmental impacts resulting from a proposed project and to develop measures that will avoid or mitigate adverse environmental effects.

Facility projects, depending on their complexity and location, may have a wide range of environmental effects and, thus, require varying levels of documentation and review.

Due to their relative minor complexity, most facility projects funded through the Section 5311 program do not normally involve significant environmental impacts. These projects are termed "Categorical Exclusions (CEs)" and are therefore excluded from the requirement to prepare an environmental impact statement. Nevertheless, before the Federal Transit Administration can make this recommendation, FTA requires that all projects complete a "Documented Categorical Exclusion Worksheet" which can be found in the Forms Section of the INDOT website, <http://www.in.gov/indot/2436.htm>.

FTA's environmental impact regulation classifies categorical exclusion projects into two groups.

The first group, described in 23 CFR 771.117(c), contains activities and projects which have very limited or no environmental effects at all. Due to the minimal environmental impacts of these activities, no environmental documentation is required beyond the Documented Categorical Exclusion Worksheet. The following types of projects would fall into this exempted group:

- ◆ Engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed;
- ◆ Approval of utility installations along or across a transportation facility;
- ◆ Construction of bicycle and pedestrian lanes, paths, and facilities;
- ◆ Landscaping;
- ◆ Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur;
- ◆ Acquisition of scenic easements; and,
- ◆ Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.

There is also a second group of facility or facility-related projects that involve more construction and greater potential for off-site impacts. However, experience has indicated that many such facility projects can be constructed and operated without causing significant environmental impact. FTA may approve the designation of these construction projects as categorical exclusions if the applicant provides documentation which clearly demonstrates that the project is compatible with non-residential land use, the primary access roads are adequate to handle the additional vehicle traffic and that no significant adverse environmental effects will result.

Under Indiana environmental laws, local projects must undergo a review by various state agencies before INDOT can authorize/fund construction of a project. Under these procedures, the approved applicant of the project initiates the early coordination process with a letter to various state and Federal agencies and Section 106 consulting parties to provide them with project information and to receive specific

information regarding the probable impacts of the various alternatives.

Included in the early coordination letter (ECL) should be the following information:

- ◆ Description of the existing conditions of the project area, deficiencies, alignment, right-of-way, and current land use.
- ◆ A description of the purpose and need of the project.
- ◆ Maps of the project location.
- ◆ Aerial and site location photographs with views from all compass directions of the site.
- ◆ Facility concept schematics, if available.
- ◆ Project schedule.

INDOT can provide letter templates and contact information and additional technical assistance in preparing and transmitting ECLs.

Part of the early coordination process is conducted with the Indiana Department of Environmental Management, State Historic Preservation Officer (SHPO). Under Section 106 of the National Historic Preservation Act, the project must assess its potential impact on historic properties. The essential steps to Section 106 include the following:

1. Establish an Area of Potential Effect (APE).
2. Identify historic properties and archaeological sites within the APE.
3. Make preliminary determinations of APE, Eligibility Determination, and Effect Finding.
4. Identify Consulting Parties/invite Consulting Parties and the Indiana SHPO to participate in consultation.
5. Review responses from Consulting Parties, hold Section 106 Consultation Meetings, if necessary.
6. Prepare APE, Eligibility Determination, and Effect Finding; these will then be

forwarded to INDOT for review, and if appropriate, approved.

7. Distribute the approved APE, Eligibility Determination, Effect Finding, and documentation to consulting parties and present to the general public through public notices.
8. Revise the APE, Eligibility Determination, Effect Finding, and supporting documentation based on Consulting Party and public comments.
9. Resolve any adverse effects on historic properties.

**Grantees should note that consistent with INDOT practices, only pre-qualified consultants are permitted to prepare environmental/Section 106 documents.**

If the applicant does not possess the requisite expertise to prepare such ECLs or DCE Worksheet, INDOT will provide a pre-qualified third party contractor support to prepare these documents on behalf of the applicant.

There is no formal public review for these types of environmental studies (the public participation requirements will have been met through the project application process). Once completed, the documents are sent to INDOT.

INDOT (utilizing in-house resources (INDOT/Office of Environmental Services or those provided by third party services) will review the documents and determine if the project meets the requirements for a CE determination. INDOT will then forward DCE Checklist with recommendations to FTA.

FTA reviews this information and determines if a Categorical Exclusion is appropriate. Such facility projects include:

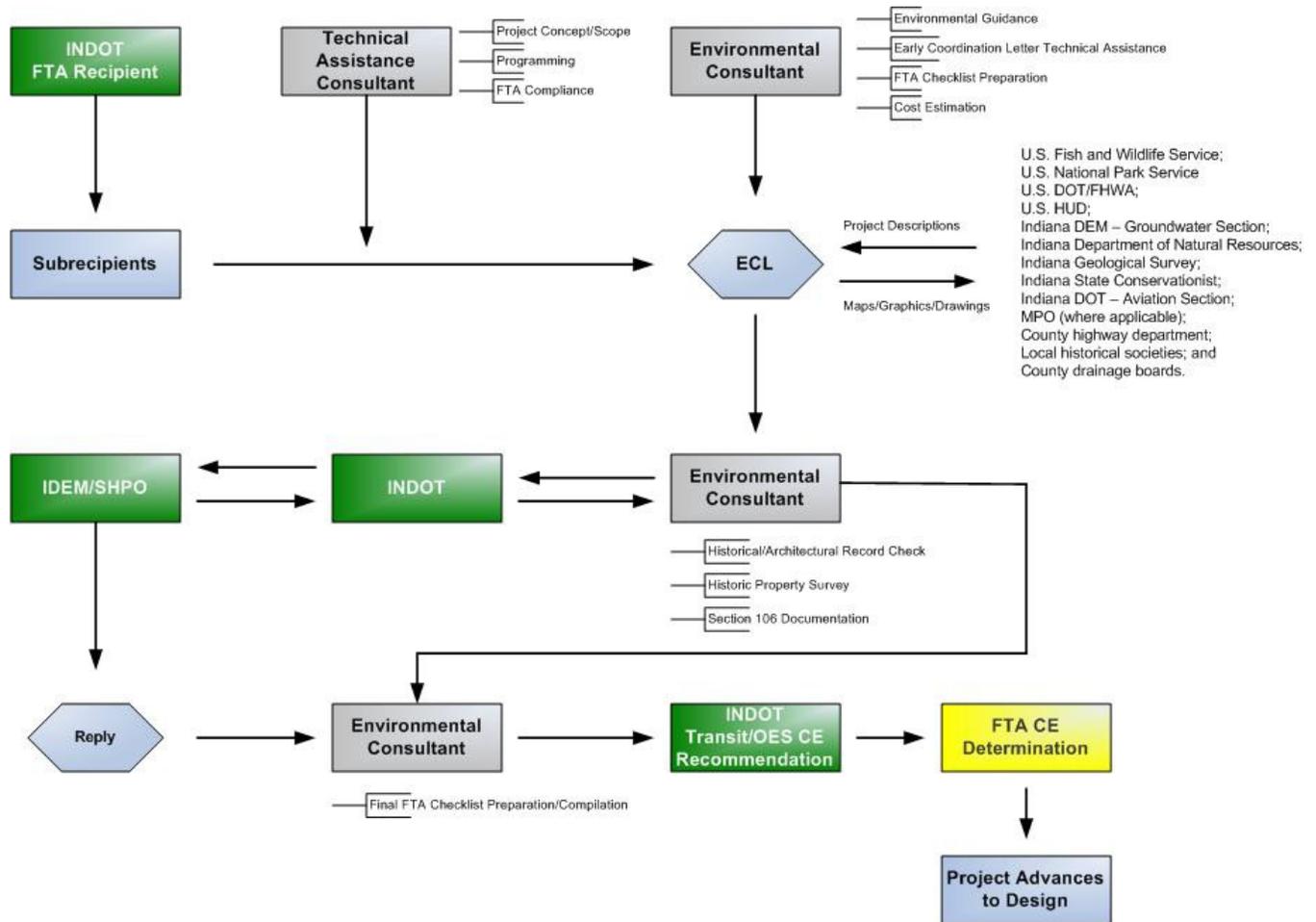
For any project not meeting the conditions for a categorical exclusion, the applicant may

have to prepare an Environmental Assessment (EA) which documents the impacts of the proposed project and considers alternatives to the proposed site or design. An EA is subject to public comment. In the unlikely event that significant environmental impacts are identified for a Section 5311 project, an Environmental Impact Statement (EIS) will be required. While experience has indicated that it will be very unusual for any INDOT

Section 5311 supported facility projects to not receive a categorical exclusion classification, it should not be assumed that the CE will be granted.

The environmental/Section 106 process is graphically depicted in Exhibit VII-1. This process depicts a scenario where INDOT, through its technical assistance contractor, provides pre-qualified consultants to work on the project.

### Exhibit VIII-1. DCE Worksheet Preparation Process



Expanded information about the environmental protection requirements can be found in FTA Circular 9300.1B, Chapter VI, [http://www.fta.dot.gov/legislation\\_law/13718.html](http://www.fta.dot.gov/legislation_law/13718.html).

### AIR QUALITY

The Clean Air Act Amendments of 1990 established stringent air quality conformity standards in areas currently in violation of national air quality standards ("nonattainment" areas) and maintenance areas. Maintenance areas are those geographic areas that had a history of

nonattainment, but are now consistently meeting the National Ambient Air Quality Standard (NAAQS) and have been re-designated by the U.S. Environmental Protection Agency (EPA) from "nonattainment" to "attainment with a maintenance plan." The 1990 Amendments also ensure that federally- assisted transportation projects support State (air quality) Implementation Plans (SIPs). The SIPs include the strategies developed by state air quality agencies for attaining the air quality standards. FTA must find that capital projects needing FTA assistance conform to the applicable SIP before the projects may be advanced to construction. If applicable, the projects must also be included in

metropolitan transportation plans and programs (TIPs) that have also been found to conform to the SIP.

The procedures and criteria governing the conformity review process are specified in EPA conformity regulations at 40 C.F.R. Part 93. While these regulatory requirements can be complex, the EPA regulation also establishes a list of transit capital projects that are exempt from the process outlined above. These are projects presumed to have insignificant emissions effects and normally they can proceed without regard to the conformity requirements.

A number of smaller transit projects are covered under the list of exemptions at 40 C.F.R. § 93.126. Regardless of the type of project being considered, early consultation with FTA is essential to lay out the applicable Clean Air Act requirements in nonattainment and maintenance areas. The FTA regional office can also provide information on selected provisions of other laws that support clean air objectives. Below are some facility or facility-related projects that are exempt from conformity review:

- ◆ Purchase of office, shop, and operating equipment for existing facilities;
- ◆ Construction or renovation of power, signal, and communications systems;
- ◆ Construction of small passenger shelters and information kiosks;
- ◆ Reconstruction or renovation of transit buildings and structures (*e.g.*, rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures); and,
- ◆ Construction of new bus or rail storage/maintenance facilities categorically excluded in 23 CFR part 771.

**INDOT Oversight Action:** A project cannot commence until INDOT formally notifies a

project that FTA has rendered a Categorical Exclusion determination. Only after such action will INDOT release funds to commence design of the facility project.

### **Step 8: Design**

At this stage of the project, the grantee may now procure Architectural/ Engineering (A/E) services to design the facility.

For projects related to or leading to construction, a grantee must use the qualifications-based procurement procedures of 40 U.S.C. Chapter 11 (Brooks Act procedures) when contracting for A&E services and other services described in 49 U.S.C. Section 5325(b), which include program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, or related services.

INDOT prefers that grantees use a “design-bid-build” process under the Section 5311 program. Other options may be presented to INDOT for consideration, consistent with FTA Circular 4220.1F.

INDOT also requires that grantees use a “design within limitations” clause in the design contract to ensure design services result in a building that will be built within programmed budgetary limitations.

**INDOT Oversight Action:** To ensure compliance with this requirement, INDOT must approve the draft Request of Qualifications statement prior public advertising and/or release of the RFQ to prospective offerors.

Additionally, INDOT must concur with the final award decision and must approve the

third party contract between the grantee and the design firm.

### **Step 9: Construction Bidding**

The architectural/engineering firm selected for the design is responsible for preparing construction bid documents.

**INDOT Oversight Action:** INDOT must approve the construction bid documents prior to public advertising and/or release of the Invitation to Bid (IFB) to prospective offerors.

### **Step 10: Construction and Close-Out**

During this phase of the project, the grantee's project manager will have primary responsibility for oversight of the contractor(s), ensuring the materials and products used in construction meet specification, ensuring the work is performed on schedule, and the quality of workmanship meets industry standards.

INDOT also requires that the grantee's designated project manager be responsible for ensuring compliance with all associated labor requirements, including Davis-Bacon and all Fair Labor Standards Act requirements.

As the final element of facility construction projects, all grantees should ensure that their selected contractors have provided all necessary final documents and that grantees have secured all necessary certificates and have in their possession all required construction documents. INDOT has developed a Facility Close-Out Checklist to assist grantees in the completion and commissioning processes. This checklist is available in the Forms Section on the INDOT website, <http://www.in.gov/indot/2436.htm>.

Grantees are responsible for the conduct of these steps and collection of the specified documents listed below. All documents should be retained by the grantee.

INDOT requests that grantees submit a completed and signed form to INDOT for its records which will be verified as part of INDOT Oversight Action for this step (see below).

**INDOT Oversight Action:** To ensure compliance, INDOT may conduct periodic inspections of on-going construction projects to examine records, documents, etc. with respect to wage and hour requirements. Where this is not possible, the grantee's agent responsible for design and/or construction management oversight may be designated to perform these reviews.

## **REQUIREMENTS ASSOCIATED WITH ALL FACILITY PROJECTS**

All facility projects that are financially supported with Federal funds must follow all applicable Federal guidelines and regulations. All applicable State guidelines and laws must be followed if State funds are utilized as match for the facility.

### **Income From Property**

Transit facilities that are constructed, purchased, improved or renovated utilizing Federal and/or State funds shall be the property of the applicant for the expected life of the facility or for as long as the facility is used for public transportation purposes. Any income received from the authorized incidental use of any portion of the facility, such as leasing an unused portion to another organization, may be retained by the grantee (without returning the Federal share) if the income is used for eligible transit capital and operating expenses. This income cannot be

used as part of the local share of the grant from which the facility was obtained. However, the income may be used as part of the local share for another FTA grant.

### **Property Disposition**

If the grantee determines that the facility is no longer needed, FTA may approve use of the property for other purposes without the reimbursement of funds to FTA. This may include use in other Federal grant programs or in non-Federal programs that have consistent purposes with those authorized for support by FTA.

-OR-

If the grantee or subgrantee no longer needs the facility for any transit purpose and is disposing of the facility acquired with grant funds and acquiring/constructing a replacement transit property, FTA may permit the net proceeds from the disposition of the original property to be used as an offset to the cost of the replacement property. If there are any excess proceeds from the disposition of the original property, these funds must be returned to FTA in accordance with 49 CFR 18.31.

-OR-

If the property is no longer needed for transit purposes and the grantee or subgrantee has determined to not acquire or construct a replacement property, the grantee must request disposition instructions from FTA. The property would be competitively marketed and sold, with FTA obtaining the greater of its share of the fair market value of the property or the straight line depreciated value of the improvements plus land value. FTA's share of the fair market value is the percentage of FTA participation in the original grant

multiplied by the best obtainable price, net of reasonable sales costs.

It should be noted that grantees or subgrantees are strongly encouraged to consult with INDOT staff and/or FTA regarding the disposition of transit property acquired with Federal funds.

### **Project Inclusion in Metropolitan TIP and/or STIP**

Consistent with other transit projects supported with FTA funds, proposed facility projects that are within metropolitan planning boundaries must be included in the Metropolitan Transportation Improvement Program (TIP) approved by the metropolitan planning organization (MPO) and the Governor and in a Statewide Transportation Improvement Program (STIP) that has been approved by FTA and the Federal Highway Administration. Applications should identify the latest approved STIP (or amendments) containing the project(s), the appropriate page numbers, and a statement identifying the date that FTA and FHWA approved the STIP (or STIP amendment) that contains the proposed project(s). Projects listed in the TIP and STIP must be derived from and consistent with the State's long range transportation plan.

### **Land Appraisal**

For land to be purchased pursuant to a transit facility project or used as local "in-kind" match toward the cost of the facility, a professional appraisal must be acquired. The appraisal should be provided in the form of an Appraisal Report which would be submitted to INDOT. Requirements for the scope of work for an appraisal as well as for the preparation of the required Appraisal Report are contained in the Appraisal

Manual prepared by the INDOT Office of Real Estate and is available at the <http://www.in.gov/indot/files/RealEstateAppraisalManual.pdf>.

### **Davis-Bacon Wage Requirements**

The Davis-Bacon Act provides that all construction contracts exceeding \$2,000 in which Federal funds are involved must contain a clause that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing rates in the project's geographical area as determined by the Secretary of Labor. A copy of this determination is to be included in each solicitation and ensuing contract. The Wage and Hour Division of the U.S. Department of Labor is responsible for publication of the wage determinations. Further information regarding this requirement can be found in the Procurement Section of the Manual.

### **Independent Cost Estimate**

In the current version of FTA Circular 4220.1, Chapter VI-page 19, [http://www.fta.dot.gov/legislation\\_law/13718.html](http://www.fta.dot.gov/legislation_law/13718.html) stipulates that grantees must perform a cost or price analysis in connection with every procurement action, including contract modifications. The objective is to ultimately pay a reasonable price for the contracted work. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. For facility projects, local construction costs

must be reviewed to complete the Independent Cost Estimate. FTA's Best Practices Procurement Manual [http://www.fta.dot.gov/grants/13054\\_6037.html](http://www.fta.dot.gov/grants/13054_6037.html), Appendix B.20, provides a format and guidance for in-house estimators that should be helpful in developing the cost estimate. The form is more complex than what may be needed for rural and small urban projects, but it provides a good overview of the process.

### **Facility Maintenance Plans**

Written Facility (and Equipment) Maintenance Plans are required for all FTA-funded facilities. FTA requires grantees to have a written facility/equipment maintenance plan. These plans should describe a system of periodic inspections and preventive maintenance to be performed at certain defined intervals.

A facility maintenance plan template is available in the Forms Section on the INDOT website, <http://www.in.gov/indot/2436.htm>. However, INDOT encourages all subrecipients to review the template carefully and customize it to meet each subrecipient's individual needs. Refer also to the most recent version of FTA Circular 5010 at [http://www.fta.dot.gov/legislation\\_law/13718.html](http://www.fta.dot.gov/legislation_law/13718.html).

(See also **Chapter VI**.)

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## CHAPTER IX. CIVIL RIGHTS COMPLIANCE

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### INTRODUCTION

All grantees are responsible for compliance with all civil rights requirements applicable to transit related projects, including the:

- ◆ Nondiscrimination prohibitions of 49 U.S.C. § 5332, and of Title VI of the Civil Rights Act of 1964, as amended;
- ◆ Equal Employment Opportunity (EEO) requirements of Executive Order No. 11246 as amended by Executive Order No. 11375;
- ◆ FTA's Disadvantaged Business Enterprise program requirements and regulations, <http://www.fta.dot.gov/civilrights/12889.html>; and
- ◆ Non-discrimination provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended (ADA).

FTA reserves the right to instruct INDOT to defer provision of Section 5311 funds to any grantee whose civil rights compliance comes into question, until FTA finds the subrecipient in compliance satisfactory to FTA standards.

The specific civil rights obligations of Section 5311 grantees in each area of civil rights compliance are summarized in this section. For further guidance, refer to the Federal laws, regulations, and executive orders cited in this chapter. Also, in some compliance areas, such as with the Americans with Disabilities Act, specific handbooks and guides have been developed to assist in grantee implementation.

### CIVIL RIGHTS COMPLIANCE ELEMENTS

There are four major areas related to Civil Rights Compliance.

#### **Nondiscrimination**

At 49 U.S.C. § 5332, <http://www.gpo.gov/fdsys/granule/USCODE-2011-title49/USCODE-2011-title49-subtitleIII-chap53-sec5332>, it states that "a person (defined broadly) may not be excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance (from FTA) because of race, color, creed, national origin, sex, or age." The statute gives FTA responsibility and authority for enforcing compliance with this provision and Title VI of the Civil Rights Act of 1964, as amended, by withholding financial assistance or referring the matter for civil action by the Attorney General.

#### **Submission of Standard Assurances**

INDOT requires that each applicant for funds annually execute a set of standard assurances, including provisions for compliance with Title VI. These assurances are available in the Forms Section on the INDOT website, <http://www.in.gov/indot/2436.htm>.

#### **General Requirements**

In addition to the language contained in the Standard Assurance, each grantee must file

the following information with INDOT. Any changes or updates to this information must be included in the annual Section 5311 grant application and/or submitted to INDOT as requested for submission to FTA. Civil Rights information will also be reviewed during the INDOT management compliance review process conducted every four (4) years. The required information includes:

1. An explanation of the posting and notice to the public that indicates the recipient complies with Title VI, and informs members of the public of the protections against discrimination afforded to them by Title VI;
2. A concise description of any lawsuits or complaints alleging discrimination in service delivery filed against the grantee within the past year, together with a statement of status or outcome of each such complaint or lawsuit.
3. A copy of the agency's notice to the public that it complies with the Title VI/EEO and instructions to the public on how to file a discrimination complaint.
4. A public participation plan that includes an outreach plan to engage minority and Limited English Proficient (LEP) populations, as well as a summary of outreach efforts made since the last Title VI program submission; this potentially includes a copy of the agency's alternative framework for providing language assistance.
5. A table depicting racial composition of membership of any non-elected planning boards, advisory councils or committees, or similar bodies and a description of efforts made to encourage the participation of minorities on such committees or councils.
6. A Board of Directors resolution or meeting minutes demonstrating the board approved Title VI program.
7. A description of fare or service adjustments, or policy or activity changes as conducted by the recipient, which would have a disproportionately high and adverse effect on minority or low-income populations as required by Environmental Justice requirements. This should include an explanation of what mitigation measures or alternative actions were evaluated or implemented to reduce the effects with regard to the social, economic and environmental impacts to minority and low-income populations as well as assurances that all potentially affected communities had full and fair participation in the transportation decision-making process.
8. An analysis of any environmental and/or social impacts as the result of proposed construction projects, including the impact on minority communities (including participation of minority and low-income populations in site selection). This information is required only for those projects that do not qualify as categorical exclusions in the environmental process (See Environmental Impacts in **Chapter VIII** of this Manual).

### **Equal Employment Opportunity (EEO)**

Grantees may not discriminate in employment on the basis of race, color, creed, national origin, sex, age, or disability.

The grantee is responsible for its own compliance and for assuring INDOT that it is compliant with all EEO provisions. If the grantee received more than \$1,000,000 or more in the previous Federal fiscal year, and has more than 50 mass transit-related

employees, it must submit an EEO program to INDOT.

### **Disadvantaged Business Enterprise (DBE)**

Grantees and their subcontractors are subject to the U.S. Department of Transportation rules regarding the participation of disadvantaged business enterprises in DOT- assisted contracts, which are designed to create a level playing field and foster equal opportunity for disadvantaged business enterprises competing for DOT- assisted contracts. Please see <https://cms.dot.gov/civil-rights/disadvantaged-business-enterprise/disadvantaged-business-enterprise-dbe-program-final> for a completion overview of this program.

The DOT issued a final rule in 2014 amending 49 CFR Part 26 and improving DBE program implementation in three major areas.

1. First, the rule revises the uniform certification application and reporting forms, creates a uniform personal net worth form for use by applicant owners, and collects data required by the DOT's surface transportation reauthorization, MAP-21.
2. Second, the rule strengthens the certification related program provisions, which includes adding a new section authorizing summary suspensions under specified circumstances.
3. Finally, the rule modifies several other program provisions concerning such subjects as overall goal setting; good faith efforts, transit vehicle manufacturers, and counting for trucking companies.

The DBE rule describes two basic discriminatory actions:

- ◆ A grantee may not 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 on the basis of race, color, sex, or national origin.
- ◆ In administering the DBE program, a grantee cannot, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of objectives of the program with respect to individuals of a particular race, color, sex, or national origin.

A DBE is defined as a small business concern which:

- ◆ Is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and,
- ◆ Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals.

For the definition of socially and economically disadvantaged, please refer to 49 CFR part 26.5 [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl).

### **Requirements**

*General.* All recipients of Section 5311 funds must agree to at least three provisions of FTA's DBE requirements, regardless of the

dollar amount of Federal financial assistance.

- ◆ All grantees must continue to provide data on the DBE program to INDOT, as directed; and,
- ◆ All grantees must create and maintain a bidders list, consisting of all firms bidding on prime contracts and bidding or quoting on subcontracts or DOT-assisted contracts. For every firm, the following information must be included:
  - Firm name;
  - Firm address;
  - First status as a DBE or non-DBE;
  - Age of the firm; and
  - Annual gross receipts of the firm.

Each contract signed between a grantee and 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, sexual orientation, gender identity, 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.*

### **Obligation**

Grantees who receive over \$250,000 in contractual obligations, including contracts

for goods and services, but excluding vehicle purchases, in a Federal fiscal year are considered “threshold recipients” and must establish a goal and prepare a DBE program pursuant to 49 CFR part 26, Subpart B, Section 26.21 [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl). Section 5311 recipients who fall into this category must only prepare a program once, updating it only as revisions are required, e.g., to submit a new goal, or to reflect any other changes that may have occurred since the submission of the original program. Threshold status may change from year to year as a grantee’s contracting opportunities increase or decrease. If you have determined you are a threshold recipient for the current year, and previously prepared and submitted a DBE Program, you need only revise and resubmit the Program to reflect your new DBE goal and any other revisions that may be necessary for the current year. Grantees should contact the INDOT Office of Transit for guidance on DBE program preparation.

All prospective DBE firms must be certified in the State of Indiana. The Indiana Department of Transportation, Economic Opportunity Division (EOD) certifies firms under the State of Indiana program. To search for a certified firm on the current Directory of Certified Firms, go to <http://www.in.gov/indot/2674.htm>. Grantees should note that only firms that are “certified” (not “registered”) conform to U.S. DOT requirements.

DBE goal projects and quarterly data are submitted by Section 5311 grantees as part of a combined quarterly invoicing report (See **Chapter V**).

## **Americans with Disabilities Act**

On July 26, 1990, the Americans with Disabilities Act of 1990 (ADA) was signed into law. The law addresses civil rights issues for individuals with disabilities, and extends coverage to both the public and private sectors that are open to public accommodation (49 CFR Part 37 [http://www.fta.dot.gov/12876\\_3906.html](http://www.fta.dot.gov/12876_3906.html)). Subsequent to the passage of ADA, FTA issued Final Rules in two areas relating to transit accessibility. 49 CFR Part 37 outlines the transportation requirements of the ADA. Another regulation, 49 CFR Part 38, [http://www.fta.dot.gov/12876\\_3905.html](http://www.fta.dot.gov/12876_3905.html), issued the same day defines the requirements for accessible vehicles. Additionally, the Department of Justice, the Equal Opportunity Employment Commission, and the Architectural and Transportation Barriers Compliance Board (Access Board) have all issued regulations to implement the employment and accessible facility design (this component includes all transit vehicles) features of the ADA.

The statute provides a comprehensive national mandate with enforceable standards to prohibit discrimination against individuals with disabilities. The law is intended to provide for a strong Federal role in the establishment of enforcement standards and to "invoke the sweep of congressional authority" to address areas of discrimination faced by people with disabilities. The term "disability" is defined as an individual with a "physical or mental impairment that substantially limits one or more of the major life activities of such individuals; having a record of such an impairment; or being regarded as having such an impairment." The Act had substantial impact on the provision of public transportation services by both public agencies and private corporations.

The regulation concerning transportation (49 CFR Part 37) is divided into subparts, summarized as follows. All components of the regulation are applicable to the Section 5311 program, unless the regulation specifically excludes coverage.

Public entities, private entities that provide specified public transportation, and private entities not primarily engaged in the business of transporting people, but operate demand response or fixed route transportation, are covered under this regulation.

Contractors who provide service on behalf of a covered entity listed above are obligated to meet the requirements of the covered entity.

### **General Provisions**

This section details the nondiscrimination requirements that must be met by all entities engaged in transportation. They include:

- ◆ No entity may discriminate against a person with disabilities in the provision of transit service;
- ◆ No entity shall deny access to general public service, notwithstanding any specialized service, if the individual is capable of using that service;
- ◆ No entity shall require an individual to use designated priority seating if an individual chooses not to use them;
- ◆ No entity shall impose special charges on individuals with disabilities;
- ◆ No entity shall require an individual to be accompanied by an attendant;
- ◆ Private entities must make reasonable accommodation in removing barriers to transportation services;
- ◆ No entity shall be permitted to deny service because of conditions imposed by the entity's insurance company; and

- ◆ Procedures should be in place to ensure that emergency preparedness, disaster response and disaster recovery planning and operations comply with Federal ADA and civil rights requirements.

The ADA regulations set minimum standards. Transit systems can choose to exceed these limits based on local circumstances. The following ADA requirements apply to all providers of public transportation:

- ◆ All printed material distributed to the public about public transit service must be available in accessible formats. Accessible material must be available on request and in a format the person can use such as large print, audio tape, and Braille.  
NOTE: This does not mean that all material must be available in every format, but the process to obtain the requested material in the requested format must be in place so that the material can be available within a reasonable period of time.
- ◆ Individuals with speech and/or hearing impairments must have access to information provided by telephone. This can be accomplished by equipping a phone line with a TTD or by using the Indiana Relay Service.
- ◆ The training requirement for all ADA-related transportation services applies to both public and private entities in either demand response or fixed route service. Personnel are to be trained to proficiency as appropriate about their duties and includes drivers, dispatchers, supervisors, customer service representatives, etc.
- ◆ All access-related equipment including wheelchair lifts, securement systems, and public address systems must be maintained in good operating condition and repaired promptly when necessary. When equipment is out of order,

reasonable steps must be taken to accommodate passengers who would otherwise use the equipment. Every effort must be made to repair lifts before the next day of service. If the lift cannot be repaired the next day, the vehicle can remain in service only if no spare is available. Vehicles with inoperable lifts can be kept in service for no more than three days for areas with population over 50,000 or five days for areas under 50,000.

- ◆ Transit providers must carry a wheelchair and occupant if the lift and vehicle can physically accommodate them, or unless doing so is inconsistent with legitimate safety requirements. Legitimate safety requirements include such circumstances as a wheelchair of such size that it would block an aisle, or would be too large to fully enter a railcar, would block the vestibule, or would interfere with the safe evacuation of passengers in an emergency. These requirements must be based on actual risks, not on mere speculation, stereotypes, or generalizations about individuals with disabilities or about the devices they use for mobility purposes. Also, they do not apply to securement; a transit provider cannot impose a limitation on the transportation of wheelchairs and other mobility aids based on the inability of the securement system to secure the device to the satisfaction of the transportation provider. It would be inconsistent with this rule to allow transportation providers to deny service to people who use wheelchairs just because particular devices may be problematic from a securement point of view.

Note that **the definition of “wheelchair” has been redefined.** The reference to “three- or four-wheeled devices” has been changed to “three- or more wheeled devices.” A wheelchair cannot be excluded now solely on the

basis of having a larger number of wheels.

- ◆ Passengers who cannot use the steps to enter the vehicle must be allowed to use the wheelchair lift.
- ◆ Passengers with disabilities must be allowed to travel with service animals which are trained to assist them.
- ◆ Passengers must be permitted to travel with portable oxygen.
- ◆ Personal care attendants (PCAs) must be allowed to travel with a passenger with a disability; a PCA is not considered a companion. On complementary paratransit systems, PCAs are not to be charged a fare. On fixed route systems, a fare can be charged. Systems cannot require that a passenger travel with an attendant. Service can be refused only if a passenger engages in violent, seriously disruptive, or illegal conduct.
- ◆ Special charges or extra fares cannot be imposed on individuals with disabilities, even if additional services are required, unless the fees apply to all other passengers as well.

Generally, any Section 5311 grantee operating fixed route services must acquire accessible vehicles. Any Section 5311 grantee operating demand response service must acquire accessible vehicles, unless the system, when viewed in its entirety, affords a level of service to persons with disabilities, including wheelchair users, equivalent to persons without disabilities. If this condition is met, non-accessible vehicles may be purchased. "Equivalent" service is determined based on seven (7) service characteristics that are further described below in the demand response section.

- ◆ Response time;
- ◆ Fares;
- ◆ Geographic area of coverage;
- ◆ Hours and days of service;
- ◆ Restrictions based on trip purpose;

- ◆ Availability of information and reservations capability; and
- ◆ Constraints on capacity or service availability.

### **Fixed Route Systems**

For transit systems providing fixed route service:

- ◆ All new vehicles purchased or leased must be accessible. If an entity purchases or leases a used vehicle, a good faith effort must be made to locate a vehicle that is accessible. The following provisions also apply:
- ◆ Drivers must announce stops at all transfer points, at major intersections, and on request of passengers with disabilities.
- ◆ At stops served by more than one route, methods of communication must be used to allow passengers with vision impairments or other disabilities to identify vehicles.
- ◆ Passengers who use the wheelchair lift must be allowed to disembark at any stop unless the lift cannot be deployed, the lift would be damaged if it were deployed, or temporary conditions at the stop make disembarking unsafe for all passengers.
- ◆ Priority seating must be provided on all fixed route vehicles, although passengers with disabilities cannot be required to sit in these seats.
- ◆ Service providers must implement programs for regular and frequent maintenance checks of wheelchair lifts.
- ◆ Fixed route operators must provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system. Most systems provide a complementary paratransit service. The following requirements apply:
- ◆ Complementary paratransit plans documenting ADA service are required. Existing systems must update their

plans as necessary to reflect system/service changes. New start systems must develop a plan and submit it with their initial application.

- The system must establish a process for determining ADA paratransit eligibility. Eligibility may be determined on a trip-by-trip basis or on a temporary basis.
- Paratransit service must also be provided to a PCA fare free traveling with an eligible passenger. In addition to the PCA, an eligible passenger can travel with one companion.
- ◆ Penalties for a pattern or practice of missing scheduled trips can be imposed according to the system's no-show policy. Systems must differentiate between cancelled trips and no-shows.
- ◆ Paratransit service must be comparable to fixed route service based on the following:
  - **Response time:** Passengers must be able to make reservations during normal business hours the day before service is needed. Passengers can be offered a trip one hour on either side of the requested time. If trip time cannot be negotiated within these boundaries, it is considered a trip denial. INDOT requires transit systems to track trip denials and indicate which trips are denied to individuals with disabilities.
  - **Fare Structure:** Systems can charge paratransit passengers as much as twice the fixed route base fare. Companions must pay the same fare as the eligible passenger. PCAs ride free.
  - **Geographic area of coverage/service area:**

Complementary paratransit service must operate in the same service area as the fixed route system, or, at a minimum, be provided within corridors with a width of three-fourths of a mile on each side of each fixed route including a three-fourths mile radius at the end of the routes.

- **Days and hours of service:** These must be the same as for the fixed route system.
- **Trip Purpose:** There can be no restrictions or priorities based on trip purpose.
- **Capacity constraints:** Trip requests cannot be denied because of capacity constraints. There can be no limits on number of trips a passenger can take in a given period of time, and there can be no waiting lists for access to the service. There can be no operational pattern or practice such as significant number of late pickups, trip denials, or excessively long trips, which limit the availability of service. Note that systems can provide subscription service. However, systems must monitor this service to ensure that the overall service is not constrained. Subscription service is not required by the ADA, so restrictions such as waiting lists and trip prioritization can be applied.

### **Demand Response Systems**

The following ADA requirements apply to systems providing demand response service:

- ◆ All newly purchased or leased vehicles must be accessible unless it can be demonstrated that the system, when viewed in its entirety including back-up

or spare vehicles, provides equivalent service to persons with disabilities. Indiana requires at a minimum, 50% of the rural transit system's fleet be accessible.

- ◆ To be considered "equivalent," service must be equal to that provided to individuals without disabilities. Service must be equivalent in the following areas:
  - **Response time:** This is calculated as the time between the request for service and the actual trip and must be the same for passengers without disabilities as for those with disabilities.
  - **Fares:** Fares must be the same for all passengers. There cannot be additional charges for accommodating mobility aids
  - **Service area:** The geographic area must be the same for all passengers.
  - **Days and hours of service:** Service cannot be limited by certain hours of the day or days of the week for passengers with disabilities.
  - **Trip purpose:** Service cannot be limited based on trip purpose for passengers with disabilities.
  - **Information and reservations:** Alternate forms of printed material must be available on request. NOTE: This does not mean that all material must be available in every format, but the process to obtain the requested material in the requested format must be in place so that the material can be available within a reasonable period of time. Systems must have access to a TTD or know how to use the Indiana Relay Service.
  - **Capacity constraints:** Service must be provided on the same basis to passengers with

disabilities as to those without disabilities. In looking at the system as a whole, there cannot be a disproportionate number of trip denials, excessively long trips, excessively long wait times, or a large number of missed trips for passengers with disabilities. Passengers can be offered a trip one hour on either side of the requested time. If trip time cannot be negotiated within these boundaries, it is considered a trip denial.

### **Reasonable Accommodations**

On March 13, 2015, the U.S. Department of Transportation published a final rule in the *Federal Register* that will have impact on all providers of public transportation. The rule addresses the concept of "reasonable accommodation" in the delivery of transit services and may require a public transit provider to go beyond what is required in U.S.DOT's existing ADA regulation.

A transit system must make reasonable accommodations in policies, practices, or procedures when such accommodations are necessary to avoid discrimination on the basis of disability, unless the recipient can demonstrate that making the accommodations would fundamentally alter the nature of the service, program, or activity or result in an undue financial and administrative burden.

The new rules give public transportation providers the flexibility to implement their own method of compliance with the reasonable accommodation requirement. However, there some basic rules to follow:

1. The provider must **make information about the process for**

**requesting and receiving a reasonable modification accessible.** Wherever information about the public transportation system is published, information about reasonable accommodations should also be included. It is also required that people with disabilities are able to access this information, which means that the information has to be available in alternative formats when requested.

2. The provider must **make the process for requesting a reasonable accommodation easily accessible to those people with disabilities.**
3. While the rule encourages individuals to make reasonable modification requests in advance, a transit agency may find situations where such requests cannot be made due to some barrier at the destination. In these instances, **operating personnel may be required to make a determination on responding to the individual's request while in revenue service.** This means bus operators, dispatch personnel, and/or operations supervisors must be trained on these rules in order to ensure that inadvertent discrimination against an individual with disabilities does not occur.
4. At least one person at each public transportation entity must be designated as the **responsible party to review, evaluate, implement, or document**

**reasonable accommodation requests.**

5. The entity must **promptly communicate its response** to the complaint allegations, including its reasons for the response, to the complainant and must ensure that it has documented its response.
6. The passenger requesting a reasonable accommodation **is not required** to use the term "reasonable accommodation" or "reasonable modification" when making a request.

Covered entities were to have put these policies and procedures in place by **July 13, 2015.**

Reasonable accommodation requires modifications in policies, practices, and procedures, when necessary, in order to avoid discriminating against individuals with disabilities. As the name suggests, there is a "reasonable" standard, and the **three exceptions** to this rule give a general idea as to the limitations of this rule.

Exception 1:	Making the accommodation would <b>fundamentally alter the nature of the public transportation</b> service.
Exception 2:	Making the accommodation <b>would create a direct threat to the health or safety</b> of others.
Exception 3:	The individual requesting the accommodation is able to <b>fully use the transportation entity's service without the accommodation</b> being made.

Go to <http://www.gpo.gov/fdsys/pkg/FR-2015-03-13/pdf/2015-05646.pdf> to review the final rule in its entirety.

A model policy template is available in the Forms Section of the INDOT website at <http://www.in.gov/indot/2436.htm>.

**Spare Ratio and ADA Compliance**

Grantees with a peak-hour operating requirement of 1 to 10 vehicles are allowed a spare ratio of two back-up vehicles; grantees with a peak-hour fleet of 11 or more are allowed a spare ratio of 20% of their fleet. Sufficient back up vehicles must also be provided for accessible vehicles..

Grantees may enter into a contract with another provider for wheelchair accessible vehicles as long as the vehicles are available during the days and times required to meet Americans with Disabilities Act compliance.

**Transportation Facilities**

New transportation facilities must be accessible. The alteration of existing facilities that substantially alters the usability of that facility must be made accessible to the extent feasible.

**Acquisition of Accessible Vehicles**

Various requirements are imposed on all covered entities regarding the purchase or lease of new or used transit vehicles. The requirements vary by type of entity and the mode of service provided.

**Provision of Services**

Miscellaneous other provisions directly related to the operation of services are included in this final subpart. Among the requirements applicable to all entities:

- ◆ Transportation providers must keep all accessibility features in good working order;
- ◆ All wheelchairs and occupants must be transported if the lift and vehicle can physically accommodate them, unless doing so is inconsistent with legitimate safety requirements;
- ◆ Standees on lifts are permitted; and
- ◆ Requiring individuals to transfer from a wheelchair to another seat is prohibited.

**Standards for Accessible Facilities**

As an appendix to the regulations (49 CFR Part 37; website follows at the end of this chapter), USDOT simultaneously published the standards for accessible buildings and facilities. These standards are applicable to facilities subject to coverage under either

Title II or Title III of the ADA. These standards are commonly referred to as the ADA Accessibility Guidelines (referred to as “ADAAG”).

Generally, the technical specifications contained in ADAAG are the same as the American National Standards Specification for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped (referred to as “ANSI 117.1”). However, there are differences between the old and the new standards. 49 CFR part 37.9 clearly indicates that ADAAG is the standard to be followed, unless the facility alteration began before January 26, 1992 and the modification complied with ANSI 117.1 or the Uniform Federal Accessibility Standard (UFAS).

### **Accessible Vehicles Specifications**

The regulation concerning accessible vehicles (49 CFR Part 38; website follows at the end of this chapter) provides the minimum design specifications for accessible transportation vehicles. In some cases, there are different specifications for vehicles with less than 30,000 pound Gross Vehicle Weight Rating.

All new, used, or re-manufactured buses and vans acquired after August 25, 1990 must meet these requirements to be considered accessible.

All vehicles must have a level change device (lift or ramp) and sufficient clearance inside the vehicle to permit wheelchair user access to the securement location. At least two (2) mobility device securement locations shall be provided on vehicles in excess of 22 feet in length. At least one (1) securement location shall be provided on vehicles less than 22 feet in length.

Other technical specifications address:

- ◆ Doors, steps, and thresholds;
- ◆ Priority seating signs;
- ◆ Interior circulation, handrails and stanchions;
- ◆ Lighting;
- ◆ Fareboxes;
- ◆ Public information system;
- ◆ Stop request system; and,
- ◆ Destination and route signs.
- ◆ Additional information and training

Easter Seals Project Action was originally commissioned in 1988 as a research and demonstration project to improve access to public transportation for people with disabilities. After passage of the ADA, their goals expanded to help transportation operators implement the ADA transportation provisions. Easter Seals Project Action is funded through a cooperative agreement with the U.S. DOT and FTA. It promotes cooperation between the transportation industry and the disability community to increase mobility for people with disabilities under the ADA and beyond. Project Action offers numerous resources, as well as training and technical assistance, in an effort to make the ADA work for everyone, every day. More information about the training and information offered through Project Action is available online at <http://projectaction.easterseals.com>.

### **Summary**

The ADA and its implementing regulations continue to be interpreted through the courts. However, the spirit of the law remains unchanged – equal access to all transit service for passengers without disabilities as well as those with disabilities. Systems must keep in mind that the intent of the law is to expand access to public transit service rather than further limit access to

service. Systems can and should work closely with their advisory committees to monitor the service as well as to resolve problems or misunderstandings.

The ADA regulations as referred to in this section are available at [http://www.fta.dot.gov/civilrights/12325\\_3884.html](http://www.fta.dot.gov/civilrights/12325_3884.html).

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## CHAPTER X. OTHER PROGRAM COMPLIANCE ELEMENTS

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### INTRODUCTION

Each Section 5311 Program grantee is responsible for being aware of and complying with all of the compliance elements of the Section 5311 program. These are contained in the most current version of FTA Circular 9040.1 which can be accessed at [http://www.fta.dot.gov/legislation\\_law/12349.html](http://www.fta.dot.gov/legislation_law/12349.html). This chapter, however, provides an overview of each of these program requirements and the responsibilities of the grantee. Again, this is a summary, and grantees should review the Circular in its entirety to ensure that they meeting all of the program requirements.

### LABOR

For almost all Federal transit programs involving transit operations, including the Section 5311 program, 49 U.S.C. § 5333(b), <http://www.dol.gov/olms/regs/compliance/statute-sect5333b.htm>, require that fair and equitable arrangements must be made to protect the interests of employees affected by such assistance. The United States Department of Labor (USDOL) is responsible under Federal law for the administration of Section 5333(b). A simplified process for assuring employee protections has been developed to accommodate the needs of participants in the Section 5311 program and is described below.

#### Special Warranty

A simplified process for assuring employee protections has been developed to accommodate the needs of participants in

the Section 5311 program. USDOL and USDOT agreed upon a Special Section 5333(b) Warranty for Section 5311 projects (hereinafter referred to as the “Special Warranty”), which was certified by the Secretary of Labor on May 31, 1979. The Warranty is available at [http://www.dol.gov/olms/regs/compliance/transit/07\\_Special\\_Warranty.htm](http://www.dol.gov/olms/regs/compliance/transit/07_Special_Warranty.htm).

Acceptance of the Special Warranty by grantees substitutes for the certification by USDOL of individually negotiated labor agreements for each project within the INDOT program of projects for Section 5311. If DOL has certified comparable arrangements to be substituted for certain parts of the Special Warranty for use in a particular situation, acceptance of the warranty as modified is treated the same as acceptance of the Special Warranty.

Before undertaking a project, the Section 5311 grantee (or a legally responsible entity designated by INDOT) must agree in writing to the Special Warranty. INDOT, in turn, certifies to USDOL that each grantee included in the program of projects for each annual funding cycle has agreed in writing to the Special Warranty. The agreement to the Special Warranty is a prerequisite before a grantee is permitted to draw down Section 5311 funds for a project.

#### Other Required Labor Elements

An additional requirement of this section is that grantees must submit to INDOT with each grant application an accurate, up-to-date listing of all existing transportation providers that are eligible recipients of transportation assistance under Section

5311. Additionally, a list of any labor organizations representing the employees of such providers must be provided. INDOT has prepared (included in the INDOT annual application package) a special form that must be completed with the grant application for purposes of meeting these requirements.

The grantee must post the entire signed and completed Special Warranty where affected employees may see it. A bulletin board in a driver's room or other conspicuous place is a good location.

The text of the National (Model) Agreement and additional guidance concerning the Special Warranty for Section 5311 may be obtained at <http://www.dol.gov/olms/regs/compliance/compltransit.htm> or by contacting:

U.S. Department of Labor  
Office of Labor-Management Standards  
Division of Statutory Programs  
Washington, DC 20210  
Telephone: (202) 693-0126  
Fax: (202) 693-1342  
[OLMS-DSP@dol.gov](mailto:OLMS-DSP@dol.gov)

DOL procedures established for using the Special Warranty do not extend beyond the Section 5311 program. DOL guidelines, 29 CFR Part 215, <http://www.gpo.gov/fdsys/granule/CFR-2010-title29-vol2/CFR-2010-title29-vol2-part215>, have established different labor protection procedures for FTA's Section 5309 capital program and Section 5307 urbanized area formula program. Note that those procedures apply to Section 5339 funds that the state may receive on behalf of recipients in nonurbanized areas. Unlike the Special Warranty for Section 5311, employee protective arrangements for each grant under other FTA programs must be certified

by DOL prior to grant award. The terms and conditions that DOL may certify for Section 5307 and 5339 grants, however, are generally similar to those of the Special Warranty for Section 5311.

## PRIVATE SECTOR PARTICIPATION

Section 5323(a) (1), <http://www.gpo.gov/fdsys/granule/USCODE-2011-title49/USCODE-2011-title49-subtitleIII-chap53-sec5323/content-detail.html>, requires that FTA funded projects "to the maximum extent feasible" provide for "the participation of private mass transportation companies." While FTA no longer prescribes a particular private sector participation process, Section 5311 grantees still have obligations under this requirement. The statewide and metropolitan planning process is assumed to adequately address private sector concerns. If, however, the state's planning process does not address rural transit projects in sufficient detail to provide adequate notice to potential private operators in the service area of Section 5311 projects, the state may need to adopt supplemental procedures in order to be able to make the required assurance.

## CHARTER SERVICE

**INDOT expressly prohibits the provision of charter service by Section 5311 grantees.** As such Section 5311 grantees, however, must understand what charter service is to ensure that the service it provides does not meet the definition of charter.

Charter service as defined in 49 CFR Part 604, <http://www.gpo.gov/fdsys/granule/CFR-2012-title49-vol7/CFR-2012-title49-vol7-part604/content-detail.html>, is

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. It does not include demand response service to individuals. The following features may be characteristic of charter service:

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

Other key elements in this definition are defined by FTA as follows:

- ◆ Demand Response-means any non-fixed route system of transporting individuals that requires advanced scheduling by the customer including services provided by public entities, nonprofits, and private providers.
- ◆ Exclusive-means service that a reasonable person would conclude is intended to exclude members of the public.

### **What does this definition mean?**

1. The group has acquired the exclusive use of the vehicle.
2. The group has specified the origin, destination, and any intermediate stops in the travel itinerary.

If these conditions exist, it is likely that the service being provided is charter service subject to the provisions of 49 CFR part 604.

FTA excludes from charter regulations coverage of recipients under the Section 5310 and Section 5311 Programs, **if** the service to be provided is considered for "program purposes." FTA defines program purposes as "*...transportation that services the needs of either human service agencies or targeted populations (elderly, individuals with disabilities and /or low income individuals).*"

*If the service does not meet the above definition, then the program exemption **does not apply.***

The definition specifies several characteristics of charter service. These significant changes to the Charter components are:

1. The service is provided using vehicles and facilities financed by FTA.
2. The service is provided to a group of persons (two or more persons).
3. The group travels pursuant to a common purpose.
4. There is a contract, either written or oral, between the group and the provider.
5. The agreement stipulates an agreed charge for the services rendered, consistent with the provider's customary and usual charges.

Regulations include new exemptions, new exceptions, new reporting and recordkeeping requirements, new web-based registration for private charter providers, new complaint procedures, and the elimination of the requirement to fully allocate costs. Attachment VIII-1, FTA's Charter Regulation: A Compliance Guide for Rural Public Transit Systems, is an excellent resource. However, if a system is unsure if the requested service is charter, the system must contact INDOT for further guidance. Remember, **INDOT does not permit the provision of charter service by Section 5311 grantees.**

## SCHOOL TRANSPORTATION

Section 5323(f) of the Federal Transit Act of 1964, as amended, prohibits the use of FTA funds for exclusive school bus transportation for school students and school personnel. The implementing regulation (49 CFR Part 605, <http://www.gpo.gov/fdsys/granule/CFR-2011-title49-vol7/CFR-2011-title49-vol7-part605>) does permit regular service to be modified to accommodate school students who ride along with the general public. For the purpose of FTA's school bus regulation, Head Start transportation (Head Start is a pre-school program financed by DHHS) is considered social service agency transportation, not school bus transportation. FTA recipients may operate vehicles that meet the safety requirements for school transportation, but may not provide exclusive school service.

## BUY AMERICA

Section 5311 funds, with certain exceptions, may not be obligated for mass transportation projects unless steel and manufactured products used in such projects are produced in the United States. Section

5311 recipients must conform to the FTA regulations (49 CFR Part 661, [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr661\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr661_main_02.tpl)). Buy America requirements apply to all purchases, including materials or supplies funded as operating costs, if the purchase exceeds the threshold for small purchases.

There are four exceptions to the basic requirements that may be the basis for a waiver. The requirements will not apply:

1. If its application is not in the public interest.
2. If materials and products being procured are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.
3. In a case involving the procurement of buses and other rolling stock (including train control, communication, and traction power equipment) if the cost of components and subcomponents which are produced in the United States is more than 60 percent of the cost of all components and subcomponents of the vehicles or equipment, and if final assembly takes place in the United States.
4. If the inclusion of domestic material will increase the overall project contract by more than 25 percent.

Requests for Buy America waivers under the non-availability, price differential, and public interest exceptions must be submitted to FTA. A waiver is not required for rolling stock meeting the domestic content and final assembly requirements. FTA has issued a general waiver for selected items, including all purchases under the Federal small purchase threshold, currently \$100,000.

## **PRE-AWARD AND POST-DELIVERY REVIEW**

Procurements for vehicles, other than sedans or unmodified vans, must be audited in accordance with the FTA regulation, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases" (49 CFR Part 663 – Volume II, Appendix Q). The regulation requires any recipient that purchases rolling stock for use in revenue service with funds obligated after October 24, 1991, conduct a pre-award and post-delivery review to assure compliance with its bid specifications, Buy America requirements, and Federal Motor Vehicle Safety requirements, and to complete specific certifications. Purchase of more than ten vehicles, other than unmodified vans or sedans, requires in-plant inspection. In the case of consolidated state procurements on behalf of multiple recipients, the in-plant inspection requirement is triggered only if any single recipient will receive more than ten of the vehicles.

## **NEW MODEL BUS TESTING**

Any new bus models must be tested at the FTA sponsored test facility in Altoona, PA, before FTA funds can be expended to purchase them (49 CFR Part 665, <http://www.gpo.gov/fdsys/granule/CFR-2012-title49-vol7/CFR-2012-title49-vol7-part665/content-detail.html>). This requirement applies to all buses and modified vans, but not to unmodified vans, including vans with raised roofs or lifts installed in strict conformance with the original equipment manufacturer modification guidelines.

A new model is defined as one that has not been used in mass transportation service in the United States before October 1, 1988, or that has been used in such service but which, after September 30, 1988, is being produced

with a major change in configuration or components. A major change in "configuration" is defined as a change which may have a significant impact on vehicle handling and stability or structural integrity. A major change in "components" is defined as a change in one or more of the vehicle's major components such as the engine, transmission, suspension, axle, or steering.

INDOT must ensure that the manufacturer has complied with the testing requirement by requesting a copy of the bus testing report, which must be provided to INDOT before any FTA funds can be expended for those vehicles.

Testing reports and other information can be obtained from:

Altoona Bus Research and Testing  
Center  
2237 Old Route 220 North  
Duncansville, PA 16625  
Phone: (814)695-3404  
Fax: (814) 695-4069  
<http://altoonabustest.psu.edu/home>

## **DEBARMENT AND SUSPENSION**

The purpose of the so-called "integrity" certification required of grantees and their subcontractors receiving over \$100,000, is to ensure that Section 5311 funds are not given to anyone who has been debarred, suspended, ineligible, or voluntarily excluded from participation in federally assisted transactions. The U.S. General Services Administration regularly publishes a document entitled "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs" (<http://www.gsa.gov/>). The burden of disclosure is on those debarred or suspended. If at any time the grantee or other covered entity learns that a certification it made or received

was erroneous when submitted, or if circumstances have changed, disclosure to INDOT is required. To document a grantee's determination of contractor responsibility, INDOT has developed the *Contractor Responsibility Determination Form* that is available in the Forms Section of the INDOT website, <http://www.in.gov/indot/2436.htm>.

## **SAFETY AND SECURITY**

FTA has the authority to withhold further financial assistance from any grantee that fails to correct any condition that FTA believes "creates a serious hazard of death or injury." As the designated entity responsible for the administration of FTA funds in nonurbanized areas, INDOT, through its regular program of monitoring, scheduled/unscheduled site visits, and compliance reviews, will identify any potential safety-related issues at the grantee level that should be brought to FTA's attention for further investigation. In addition, MAP-21 has granted new authority to FTA regarding transit safety, as described below.

### **MAP-21 and the Safety and Management System (SMS)**

MAP-21 grants FTA the authority to establish and enforce a new comprehensive framework to oversee the safety of public transportation throughout the United States as it pertains to heavy rail, light rail, buses, ferries, and streetcars. The law requires, among other things, that FTA update the State Safety Oversight (SSO) program to ensure that rail transit systems are meeting basic, common-sense safety requirements. The law also includes important new safety provisions for bus-only operators. FTA will implement the new law in consultation with the transit community and the U.S.

Department of Transportation (DOT) Transit Rail Advisory Committee for Safety (TRACS), which has been working since September of 2010 to help guide this effort.

All recipients of FTA funding must develop an agency safety plan and certify that the plan meets FTA requirements. At a minimum these plans must include:

- ◆ Strategies for identifying risks and minimizing exposure to hazards;
- ◆ An adequately trained Safety Officer to report directly to the General Manager or equivalent;
- ◆ Performance targets based on safety performance criteria; and
- ◆ An ongoing staff safety program specific to safety sensitive job functions.

Additionally, FTA has the authority to inspect and audit all transportation systems, to make reports and issue directives with respect to safety, to issue subpoenas and take depositions, to require the production of documents, to prescribe record keeping and recording documents, to investigate public transportation accidents and incidents, to enter and inspect equipment, rolling stock, operations, and relevant records and to issue regulations to carry out safety requirements that meet MAP-21 conditions. FTA has enforcement authority and is permitted to issue directives, require more frequent oversight, impose more frequent reporting requirements and require that formula grant funds be spent to correct safety deficiencies before funds are spent on other projects.

FTA's Safety Management Systems (SMS) is a comprehensive, collaborative approach that brings management and labor together to build on the transit industry's existing safety foundation to control risk better, detect and correct safety problems earlier, share and

analyze safety data more effectively, and measure safety performance more carefully.

## **SAFETY MANAGEMENT SYSTEMS (SMS)**

SMS is about strategically applying resources to risk. It is based on ensuring that a transit agency has the necessary organizational infrastructure in place to support decision-making at all levels regarding the assignment of resources. This is essential to effectively manage safety risks during the delivery of service. The elements of an organizational infrastructure include:

### **SMS: Scalable and Flexible**

- ◆ SMS activities, and the processes necessary to support them, are scalable to the size of the transit agency and the complexity of the service delivery model

### **Key SMS Activities**

- ◆ Collecting and analyzing data and information to proactively identify hazards
- ◆ Taking actions to mitigate the risk associated with the potential consequences of hazards
- ◆ Ongoing monitoring of risk through a system of safety controls
- ◆ Using data to support allocation of resources that promote and support safety performance

### **Key SMS Features**

- ◆ Accountability for the management of safety at the highest level of the transit agency
- ◆ Collaboration between management and labor to ensure agreement on safety risk priorities
- ◆ Structured and strategic decision making for safety resource allocation

- ◆ Enhanced service safety performance through proactive safety risk analyses
- ◆ Increased confidence in safety risk controls through safety assurance
- ◆ Partnership and knowledge sharing between transportation agencies, state agencies and the FTA
- ◆ A positive safety culture that supports safety communication and reporting

### **SMS Components**

SMS is comprised of four components:

- ◆ Safety Policy – safety commitment and accountability, safety roles and responsibilities, safety resource allocation to support safety performance targets
- ◆ Safety Risk Management – safety hazard identification, safety risk-based analysis and implementation of safety risk controls
- ◆ Safety Assurance – monitoring of safety risk controls to ensure they are achieving their intended objective while assessing the need for new risk control strategies
- ◆ Safety Promotion – achieving the safety mission through clear safety communication channels and safety training programs

### **SMS Benefits**

- ◆ An SMS helps agencies see the whole picture when it comes to risk. For example, a pedestrian fatality in a crosswalk may have been avoided when driver's reports of near misses were investigated and changes were made in the operating environment that mitigated a likelihood of a pedestrian strike. Supervisors should proactively investigate the operating environment, and management should support organizational accountability rather than only assessing individual blame after a situation takes place. This leads

to changes in procedures and training that result in reduced risks.

### **The Role of Senior Management in SMS**

- ◆ Regardless of the size, mode, or operating characteristics of a transit agency, the success of SMS depends on the extent to which senior management understands and accepts its role of accountability in promoting safety and managing transit agency safety programs.
- ◆ Ensuring employee partnership and participation in all safety matters.

### **SMS and the Existing Safety Structure**

- ◆ SMS builds on existing transit agency resources, both human and technical, and refocuses agency activities to more effectively utilize tools and existing talent and expertise within the transit agency.
- ◆ SMS ensures that safety decision-making is integrated into the management processes that drive the organization.

### **Security, Emergency Preparedness and SMS**

- ◆ When considering overall risk to passengers, employees and the transit agency, SMS ensures that transit management integrates security and emergency preparedness information into its assessments of risk.
- ◆ SMS helps management and employees understand their total safety risk exposure and apply resources strategically and effectively.

### **SMS and Safety Culture**

- ◆ SMS facilitates a shift in the attitudes regarding safety within a transit agency, by changing both leadership and

employee perceptions of safety and its importance in day-to-day activities.

- ◆ SMS places a strong emphasis on safety training and safety communication to guarantee that the entire transit agency fully understands SMS policies and procedures, and supports an effective safety-reporting environment within all levels of the workforce.
- ◆ SMS promotes an environment where management and employees work together to identify risks and act together to control them.

Local transit systems should have transit operating procedures for safety and security that include at a minimum the following:

### **Standard Operating Procedures**

- ◆ Recruitment and Selection
- ◆ Training
- ◆ Performance Evaluation
- ◆ Wellness/Fitness for Duty
- ◆ Drug and Alcohol Testing
- ◆ Criminal Background and Driver Licensing checks for Drivers
- ◆ Maintenance Procedures
  - Preventive Maintenance
  - Vehicle Maintenance Documentation
- ◆ Safety and Security Committees

### **Emergency Operating Procedures**

- ◆ Transit Emergency Response Material
- ◆ Accident and Incidents
- ◆ Acts of Nature
- ◆ Hazmat
- ◆ Organizational Infrastructure
- ◆ Evacuation Procedures
- ◆ Incidents Management
- ◆ Accident Investigation
- ◆ Drills, Simulations and Exercises
- ◆ Relationships with Community Emergency Responders

## **Transit Security**

- ◆ Transit Vehicle Security
- ◆ Facility Security
- ◆ Handling Conflict or Acts of Violence on the Bus
- ◆ Dealing with a Hostage Situation
- ◆ Reacting to Bomb Threats and Suspicious Mail
- ◆ Domestic of International Terrorist Threat and Risk
- ◆ Being Alert and Aware with in the Transit Environment and the Community
- ◆ Identifying and Reporting Unusual Behavior and Activity
- ◆ Identifying and Reporting Unusual Vehicles
- ◆ Identifying and Reporting Suspicious Items
- ◆ Conventional Weapons and Improvised Explosive Devices
- ◆ Reacting to Weapons and IED Threat and Attack
- ◆ Chemical, Biological and Radiological Release

As of the writing of this Manual (May 2015), States are still awaiting the issuance of FTA's safety guidelines for the full implementation of SMS. Previously, on March 24, 2015, the Federal Transit Administration's Office of Transit Safety & Oversight (TSO) conducted a webinar on the State Safety Oversight of Rail Public Transit Systems and Public Transportation Safety Certification Training Program Interim Provisions. As FTA indicated during the webinar, at this time, only public rail systems fall under MAP-21 safety-related rule making. However, FTA strongly suggested that public bus transit systems voluntarily follow the SMS model. The webinars and transcripts are available on TSO's website at the following link: [http://www.fta.dot.gov/tso\\_15918.html](http://www.fta.dot.gov/tso_15918.html). As soon as any regulations are proposed for Section 5311 grantees, INDOT will issue specific guidance regarding the necessary steps for compliance.

## **DRUG AND ALCOHOL POLICY**

### **Background**

The FTA recognizes that prohibited drug use and alcohol misuse affect everyone in the United States in one way or another. The final rule on the prevention of alcohol misuse and prohibited drug use in transit operations (49 CFR Part 655), <http://www.gpo.gov/fdsys/granule/CFR-2012-title49-vol7/CFR-2012-title49-vol7-part655/content-detail.html>, went into effect on August 1, 2001. In addition, the Department of Transportation has issued 49 CFR part 40 (as amended), "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," <http://www.transportation.gov/odapc/part40>, which prescribes testing methods to be followed.

Grantees should note that there have been a number of updates to these two regulations published in the *Federal Register*. To ensure that you are aware of all current and future updates:

- ◆ Subscribe to and read the FTA Drug and Alcohol Regulations Update, FTA's quarterly newsletter. To subscribe, go to <https://public.govdelivery.com/accounts/USDOTFTA/subscriber/new>.
- ◆ Subscribe to the Office of Drug and Alcohol Policy and Compliance (ODAPC) listserv: <http://www.transportation.gov/odapc/get-odapc-email-updates>.

An additional document summarizing all of the federal guidelines is the FTA publication "*Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit*". This document, last updated in 2009, is available at [http://www.fta.dot.gov/documents/ImplementationGuidelines\\_Oct2009.pdf](http://www.fta.dot.gov/documents/ImplementationGuidelines_Oct2009.pdf).

INDOT requires all Section 5311 grantees to submit to drug and alcohol compliance reviews and other inspections every four (4) years and as necessary to ensure compliance with the FTA mandated drug and alcohol testing program. These reviews include vendor compliance, program manager, record retention, and policy review.

### **Required Participation**

Any recipient of Federal financial assistance under the Section 5311 program, or any recipient of Federal financial assistance under Section 103(e)(4) of title 23 of the United States Code, must comply with these regulations. Generally, these are transit agencies that receive FTA funding and State agencies that assist in distributing FTA funding to transit agencies.

FTA regulations require that the following program elements be implemented:

- ◆ A policy statement on drug use and alcohol misuse in the workplace;
- ◆ An employee (for drug program only) and supervisor education and training program;
- ◆ A prohibited drug and alcohol testing program for employees and applicants for employment in safety-sensitive positions;
- ◆ An evaluation of the employee who has violated the drug and alcohol regulations; and
- ◆ An administrative procedure for recordkeeping, reporting, releasing information, and certifying compliance.

### **COMMERCIAL DRIVER'S LICENSE**

In 1986, Congress passed the Commercial Motor Vehicle Safety Act, prescribing that a national system of licensing should be adopted to ensure the fitness of individuals

driving commercial motor vehicles. The legislation required the states to adopt and carry out a program for testing and ensuring the fitness of individuals to operate commercial motor vehicles consistent with the minimum standards prescribed by the U.S. Secretary of Transportation, 49 CFR Part 383, <http://www.fmcsa.dot.gov/regulations/title49/part/383>.

All drivers of vehicles designed to transport 16 or more people (including the driver) must have a Commercial Driver's License (CDL) pursuant to this Act. Mechanics that drive the vehicles must also have a CDL.

Systems are required to provide written documentation that mechanics who drive the vehicles are CDL holders. This includes outside vendors that provide maintenance for these vehicles.

### **INDIANA PUBLIC PASSENGER CHAUFFEUR'S LICENSES**

In accordance with Indiana Code 9-13-2-21 and 9-13-2-143 operators who are transporting less than 15 passengers for hire are required to have a PPC license. In order to obtain a Public Passenger Chauffeurs (PPC) license, an operator must hold a valid operator's license and be at least 18 years of age. Drivers must complete a test with the BMV and submit a valid PPC physical form completed by a qualified physician.

INDOT requires FTA Section 5311 public transit operators to hold a PPC, and, in addition, to meet the physical examination requirements of the Indiana Medical Qualification program (see previous section) which may be used to meet the BMV physical requirement. The MQ physical examination requirement was changed from

annual to biannual to better coordinate with the BMV requirement.

## **INDIANA MEDICAL QUALIFICATION PROGRAM**

INDOT has developed a model Medical Qualification (MQ) Program and required its use by all Indiana Rural Transit (Section 5311) Systems. The purpose of the program to 1) ensure the safety of both Indiana's rural transit drivers and the traveling public, and 2) to establish standards for consistency in the medical standards used to evaluate safety-sensitive employees required to hold a CDL or PPC license and who operate rural public transit vehicles. The required MQ Program consists of the following components:

- ◆ Medical Qualification (MQ) Policy
- ◆ Example MQ Medical Release Form (as a result of a return to active status situation or triggering event).
- ◆ Example Medical Disqualification Form
- ◆ Supplemental Rx/OTC Medication Policy
- ◆ Rx/OTC Medication Procedures
- ◆ Rx/OTC Medication Information Form
- ◆ Post Accident Investigation Procedures and Forms
- ◆ Medical Qualification Driver's Physical Examination Form
- ◆ Medical Determination Appeals Procedure

Medical qualification assessments and determinations are made by a Medical Determination Officer (MDO), a medical professional under contract to the individual transit systems. The MDO performs a variety of medical services including, but not limited to, physical examination services/fitness or duty assessments for all safety-sensitive transit positions in accordance with Indiana Code 20-9.1-3-1 and applicable transit system policies including Medical Qualification and Substance Abuse Policies. As such, the MDO provides a written recommendation for an applicant's ability to perform the essential duties of a safety-sensitive job. The example MQ Medical Release Form and example Medical Disqualification Form shown as examples above are provided as a guide to the MDO. However, the actual forms used may actually be a composite of these forms and suggestions from the MDO. The Model Medical Qualification Program and the MDO contracts are administered by the Indiana Rural Transit Assistance Program (Indiana RTAP). All of the required MQ forms are available for download at [www.indianartap.com](http://www.indianartap.com).

## **DRIVER TRAINING**

INDOT requires that all safety-sensitive employees receive the following training as a condition of program funding:

<b>Training</b>	<b>Description</b>	<b>Frequency</b>	<b>Recommended Source</b>
Manager/Supervisor Passenger Assistance – Wheelchair Securement	ADA, Passenger Sensitivity, Lift Operation and Wheelchair Securement	Within (1) year of employment  Triennial, after initial training	Indiana RTAP
Operator Passenger Assistance – Wheelchair Securement	ADA, Passenger Sensitivity, Lift Operation and Wheelchair Securement	New Hires – Within (6) months of employment  Bi-annual, after initial training	Indiana RTAP
Emergency Evacuations	Vehicle preparation, hazardous conditions, securing the vehicle, breakdown procedures, accident procedures, and passenger illness/injury	New Hires – Within (6) months of employment  Triennial, after initial training	Indiana RTAP
Defensive Driving	Vehicle safety inspection, defensive driving tools, rules of the road, following distance, breaking distance, merging, rail crossings, hazards, intersection etiquette, passing, etc.	New Hires – Within (6) months of employment  Triennial after initial training	Indiana RTAP
Pre-Trip Inspections	How to conduct a thorough pre-trip inspection, mx problem areas, maintaining the wheelchair lift & securements, reporting deficiencies, establishing service intervals and monitoring repair history	New Hires – Within (6) months of employment  Triennial, after initial training	Indiana RTAP

## **RESTRICTIONS ON LOBBYING**

Federal financial assistance, including Section 5311, may not be used to influence any member of Congress or an officer or employee of any agency in connection with the making of any Federal contract, grant, or cooperative agreement.

Grantees awarded FTA assistance exceeding \$100,000 must sign a certification so stating and also must disclose the expenditure of non-Federal funds for such purposes (49 CFR Part 20, <http://www.gpo.gov/fdsys/granule/CFR-1998-title49-vol1/CFR-1998-title49-vol1-part20/content-detail.html>). Other Federal laws also govern lobbying activities. For example, Federal funds may not be used for lobbying Congressional representatives or senators indirectly, such as by contributing to a lobbying organization or funding a grass-roots campaign, to influence legislation (31 U.S.C. § 1352). General advocacy for transit and providing information to legislators about the services a recipient provides in the community are not prohibited, nor is using non-Federal funds for lobbying, so long as the required disclosures are made.

## **PROTECTION OF THE ENVIRONMENT**

All projects undertaken with Federal funds must assess the project's potential impact on the environment. Most projects and activities funded through the Section 5311 program do not normally involve significant environmental impacts. Such projects are termed "categorical exclusions" in FTA's procedures because they are types of projects that have been categorically excluded from the requirement to prepare an environmental document.

In the annual certifications and assurances, the state assures FTA that all the projects in the application are categorical exclusions under 23 CFR §771.117(c), <https://www.fhwa.dot.gov/legsregs/directives/fapg/cfr0771.htm>, unless otherwise noted. FTA's regulation classifies categorically excluded actions and projects into two groups.

The first group contains activities and projects which have very limited or no environmental effects at all such as: planning and technical studies, preliminary design work, program administration, operating assistance, and transit vehicle purchases. Because environmental impacts of these activities are either nonexistent or minimal, no environmental documentation is required.

The second group of projects, which normally qualify for a categorical exclusion are projects involving more construction and greater potential for off-site impacts. Examples are: new construction or expansion of transit terminals, storage and maintenance garages, office facilities, and parking facilities. Experience has shown that these projects can be built and operated without causing significant impacts if they are carefully sited in areas with compatible land use where the primary access routes are adequate to handle the additional transit vehicle traffic. These construction projects may be designated as categorical exclusions after FTA approval, but no presumption exists concerning the significance of environmental effects. It is the applicant's responsibility to provide documentation that clearly demonstrates that the stated conditions or criteria are met and that no significant adverse effects will result. Such documentation is usually narrowly focused on one or a limited number of environmental concerns or questionable areas. Depending

on the circumstances, some technical analysis may be required, such as a noise impact assessment or a street capacity analysis; but in most cases, the documentation will focus on consistency with local land-use plans, zoning and any state or local plans or programs governing the protection and management of environmental resources, such as air quality, water quality, and noise abatement. The documentation will provide a written record of coordination with those state and local agencies having jurisdiction or a special interest in some aspect of the project. There is no formal public review for these types of environmental studies. FTA reviews this information and determines if a categorical exclusion is appropriate. In order to include or advance such a project to Category A, the state must have on file a letter from FTA approving the categorical exclusion.

For any project that is not found to be a categorical exclusion, the state may be required to prepare an Environmental Assessment (EA) for public comment and FTA review to determine if a Finding of No Significant Impact (FONSI) is appropriate. A project which requires an EA may not be included in Category A before FTA has issued a FONSI for the project. In the unlikely event that significant environmental impacts are identified for a Section 5311 project, an Environmental Impact Statement (EIS) will be required.

There are a number of environmentally related statutes, orders, and compliance procedures that may apply to a given project even if it is properly classified as a categorical exclusion. The environmental requirements which may come into play for Section 5311 projects are: Clean Air Act conformity provisions; protection of public parkland, wetland, and waterfowl refuges, and historic sites (49 U.S.C. §303); Section

106 of the National Historic Preservation Act (protection of historic and archaeological resources); and Section 404 of the Clean Water Act (Corp of Engineers' permit requirements for dredge and fill activities in "waters of the United States"). FTA policy is to require compliance with these environmentally related requirements within the overall environmental process. The EA or environmental documentation to support a categorical exclusion must address these related requirements. Compliance with these requirements must be completed before a construction project can be included in Category A.

FTA's procedures categorically exclude most Section 5311 projects. INDOT conducts its initial assessment of potential environmental impacts of each project when the agency conducts its application review. The grant application package requires prospective grantees to sufficiently document the project in order for INDOT to make the necessary determination to recommend to FTA that the project should be classified as a Categorical Exclusion. Similarly, INDOT will also identify those projects where additional documentation and study may be necessary before an environmental determination can be rendered. INDOT will coordinate with the FTA Regional Office on all projects falling into this latter category.

Any project involving new construction of a facility or substantial rehabilitation of an existing facility will be discussed with FTA to determine the need for information supporting a categorical exclusion and the applicability of any additional environmental requirements. Early coordination is also necessary to identify those projects for which the state must prepare an EA. If an EA is required, further steps to develop the project will not be authorized (e.g., property

acquisition, final design, and construction) until FTA makes a final environmental finding for the project.

## **CLEAN AIR ACT**

The Clean Air Act, as amended, establishes many substantive requirements in order to bring air quality regions that violate the national ambient air quality standards into attainment by prescribed dates. Most "nonattainment" areas are heavily urbanized, but in the case of areas that are nonattainment for ozone or small particulate matter (PM-10), substantial rural areas may be included within the nonattainment area boundaries.

The principal requirement that the state and Section 5311 subrecipients must be aware of is the transportation/air quality conformity review process. In general, transportation plans, programs, and projects must be found to "conform" with approved state (air quality) implementation plans before they can be funded by FHWA or FTA. Most of the projects typically funded under Section 5311 have been exempted by regulation from the conformity review process, *e.g.*, operating assistance, purchase and rehabilitation of transit vehicles, operating equipment, construction of most storage and maintenance facilities, *etc.* A complete list of exempted highway and transit projects is found in 40 C.F.R. §51.361. Other types of projects may require detailed air quality analysis (either burden analysis or dispersion modeling) in order to determine whether the project would create a violation of a standard or make an existing violation worse. While this is not an issue for most Section 5311 projects, it could be for certain large facilities, *e.g.*, transit terminals and park-and-ride facilities.

The state should consult with FTA as early as possible in the development of the program of projects to establish which projects, if any, will require further analysis to support FTA's conformity determination.

Consultation with the Environmental Protection Agency and state and local air quality agencies is also required for all projects subject to the conformity review process; thus, it is in the best interests of the state and subrecipient to identify these projects to the FTA regional office as soon as possible.

Other Clean Air Act requirements may apply to the state and Section 5311 subrecipients, *e.g.*, phase-in of more stringent bus emission standards. The FTA regional office can supply up-to-date information on various provisions of the Clean Air Act related to mobile sources.

## **BLOODBORNE PATHOGENS POLICY**

Any employer that has employees with occupational exposure to blood or other potentially infectious materials must develop a written Exposure Control Plan designed to eliminate or minimize employee exposure. "Occupational Exposure" means "reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties."

Most transit systems have determined that their employees do face periodic exposure to potentially infectious materials. As a result, the provisions of OSHA Regulation 1910.1030 [https://www.osha.gov/pls/oshaweb/owadi.sp.show\\_document?p\\_table=STANDARDS&p\\_id=10051](https://www.osha.gov/pls/oshaweb/owadi.sp.show_document?p_table=STANDARDS&p_id=10051) should be addressed by all grantees.

Under this rule, **annual** training must be provided to all drivers and mechanics. New hires should receive training as soon as possible following the hire date. The training documentation must include date of training, individuals trained, name of person (or video) conducting the training, and any materials used in the training. All transit systems must be equipped with the proper safety and disposal equipment. A thorough explanation of a Transit Manager's responsibilities to implement the proper training and procedures is contained in the document entitled, "Managing Bloodborne Pathogens: Guidelines for Transit Managers," Erskine Walther, Walther Consultancy, Greensboro, NC 27401 (September 1993). Copies of this document are available from INDOT. In addition, INDOT RTAP has developed an Exposure Control Plan template for Section 5311 systems that is available through their office. The local Health Department may be able to provide you with further information INDOT strongly recommends that drivers be offered the Hepatitis B series of vaccination. If a driver selects not to accept the vaccination, a waiver form must be signed. The waiver form is included in the INDOT Exposure Control Plan.

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## CHAPTER XI. GLOSSARY

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### INTRODUCTION

The following terms and definitions are defined as they relate to INDOT's administration of the FTA Section 5311 Program. Where terms have been quoted directly from another resource, such as the American Public Transportation Association (APTA), Federal Transit Administration (FTA), etc., this is noted in parentheses directly following the definition.

### TERMS AND DEFINITIONS

**ACCESSIBILITY:** The extent to which facilities, including transit vehicles, are barrier-free and can be used by people that have disabilities including wheelchair users. It is 1) A measure of mobility, and 2) A measure of the ability of public transportation users to access transit modes. Accessibility includes not only how transit vehicles and facilities can be accessed but how the transit service as a whole is accessed, e.g., access to schedules and other service information.

**ACCESSIBLE TRANSPORTATION:** The extent to which facilities are barrier-free and usable by people with disabilities, including those using wheelchairs. (Source: American Public Transportation Association (APTA))

**ACCESSIBLE VEHICLE:** 1) A vehicle equipped with an accessibility package which allows passengers using wheelchairs to enter, exit, and ride in the vehicle. 2) A transportation vehicle that does not restrict access and is useable and provides allocated

space and/or priority seating for people who use wheelchairs or other mobility devices.

**ACCIDENT REPORT:** The report(s) a driver must complete and submit to management when involved in an accident, regardless of the severity. Each transportation provider should keep an accident package in each vehicle so that the driver can easily open and follow the directions in the event of an accident. This package should include, but is not limited to, who to call, blank forms for written statements from each passenger describing the accident, blank forms for written driver statement, and written information on what to do immediately following the accident (e.g., make sure each passenger is safe, how to assist all passengers to exit the vehicle, and other pertinent information that may assist the driver and make the situation as stress free as possible for all involved.)

**ACCRUAL ACCOUNTING:** A method of financial accounting where revenues are recorded when earned; the revenue does not have to be received in the same reporting period. Similarly, expenditures are recorded as soon as they result in liabilities for benefits received; the payment of the expenditure does not have to be made in the same reporting period (NTD).

**ACTIVE VEHICLES:** The total number of vehicles available for revenue service during the calendar year. Vehicles, including those designated as spares, are considered available if they are capable of being used even if on an occasional basis (except for retired vehicles).

**ALTERNATIVE FUELS:** Vehicle engine fuels other than standard gasoline or diesel. Typically alternative fuels burn cleaner than gasoline or diesel and produce reduced emissions. Common alternative fuels include methanol, ethanol, compressed natural gas (CNG), liquefied natural gas (LNG), clean diesel fuels, and reformulated gasoline.

**ADA ELIGIBLE:** Physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment.

**ADMINISTRATION EXPENSES:** The cost to administer a project including, but not limited to, wages and fringes (director, secretary, bookkeeper, etc.), office supplies, administrative office space, and utilities.

**ADVOCATE:** A person or a group that speaks in a supportive manner on behalf of a person or group of people. Transportation advocates speak in support of transportation services for the general public, low-income individuals and families, older adults, and/or those with intellectual and physical disabilities.

**ALTERNATIVE FUEL VEHICLE:** Class of vehicles powered by fuels other than gasoline or diesel, such as compressed natural gas (CNG).

**AMERICAN PUBLIC TRANSPORTATION ASSOCIATION (APTA):** A national professional association, headquartered in Washington, D.C., whose membership works to expand and strengthen public transportation. APTA is an international organization that represents the transit industry, including bus, rapid transit and

commuter rail. See [www.apta.com](http://www.apta.com) for further information.

**AMERICANS WITH DISABILITIES ACT (ADA):** Passed by Congress in 1990, this Act mandates equal opportunities for persons with disabilities in the areas of employment, transportation, communications and public accommodations. Under this Act, most transportation providers are obliged to purchase lift-equipped vehicles for their fixed route services and must assure system-wide accessibility of their demand response services to persons with disabilities. Public transit providers also must supplement their fixed route services with complementary paratransit services for those persons unable to use fixed route service because of their disability. For more information, see <http://www.ada.gov/>.

**APPORTIONMENT, APPROPRIATION, ALLOCATION:** (Interchangeable terms) The maximum amount of funding a transit system MAY be granted from an assistance program.

**AWARD:** The authorized (obligated) level of funding a transit system has contracted to receive from a grant assistance program based on an application for funding or formula distribution.

**BASE FARE:** The price charged to one adult for one transit ride; excludes transfer charges, zone charges, express service charges, peak period surcharges and reduced fares. (APTA)

**BASE FLEET:** The average number of revenue vehicles in scheduled operation during the nonpeak hours of the average weekday of operation.

**BODY ON TRUCK CHASSIS (BOTC):** This vehicle seats 12 to 18 passengers and is typically composed of a light truck chassis underneath a special body. A supplier of a BOTC will purchase a chassis and then manufacture and attach the body. This construction is similar to that of a school bus.

**BRANDING:** The marketing of a specific name, logo, slogan, and design scheme for a specific service. In transportation services, a logo and slogan or tag line is established and used in all printed materials, vehicle lettering, and radio advertisements.

**BROKERAGE:** A method of providing transportation where riders are matched with appropriate transportation providers through a central trip request and administrative facility. The transportation broker may centralize vehicle dispatch, record keeping, vehicle maintenance and other functions under contractual arrangements with agencies, municipalities and other organizations. Actual trips are provided by a number of different vendors.

**BYLAWS:** The policies that govern the internal affairs of the transportation system.

**CANCELLATION:** A trip that was scheduled by a service consumer that was later cancelled prior to the vehicle being dispatched to the pickup location.

**CAPITAL ASSISTANCE:** Financial assistance available from Federal, State, or local governments for transit capital expenses (not operating costs); such aid may originate with Federal, local or State governments. (APTA)

**CAPITAL COSTS:** 1) The cost of equipment and facilities required to support

transportation systems, including vehicles, radios, shelters, etc. 2) Costs of long-term assets of a public transit system such as property, buildings, vehicles, etc. (APTA) Over the years as part of the Federal authorizing legislation for the Section 5311 Program, FTA has broadened its definition of capital costs to include bus overhauls, preventive maintenance, and even a share of a transit provider's ADA paratransit expenses.

**CAPITAL GRANT AWARDS:** Federal, state, and local capital assistance awarded during the calendar year reporting period.

**CASUALTY AND LIABILITY COSTS:** The costs of insurance premiums for coverage of the transit system and payments for losses due to acts for which the transit system is liable.

**CCAM:** Acronym for the Coordinating Council on Access and Mobility. The CCAM is a Federal interagency council established by President George W. Bush by Executive Order in 2004. The CCAM oversees activities and makes recommendations that advance the goals of the Order: simplify customer access to transportation, reduce duplication of transportation services, streamline Federal rules and regulations that may impede the coordinated delivery of services, and improve the efficiency of services using existing resources. Chaired by the Secretary of Transportation, the Council is composed of the Secretaries of Health and Human Services, Education, Labor, Veterans Affairs, Agriculture, Housing and Urban Development, Interior and Justice as well as the Commissioner of the Social Security Administration and the Chairperson of the National Council on Disability. The United We Ride initiative was started by the CCAM. For further information, see

[http://www.unitedweride.gov/1\\_3\\_ENG\\_HT\\_ML.htm](http://www.unitedweride.gov/1_3_ENG_HT_ML.htm).

**CHARTER SERVICE:** Transportation provided for a group of people who, pursuant to a common purpose, under a single contract, at a fixed charge for the vehicle or service travel together under an itinerary either specified in advance or modified after having left the place of origin. Charter service is closed door service, i.e., no other passengers may be boarded during the provision of service to the chartered group. **INDOT does not permit the provision of charter service by any of its FTA subrecipients.**

**CLEAN AIR ACT AMENDMENTS OF 1990 (CAAA):** Legislation which renews and expands upon previous clean air legislation aimed at reducing air pollution. It requires that all new vehicles purchased for public transportation service meet very stringent clean air requirements.

**COMMERCIAL DRIVER'S LICENSE (CDL):** The standardized driver's license required of bus and heavy truck drivers in every State. Covers drivers of any vehicle manufactured to seat 15 or more passengers (plus driver) or more than 13 tons gross vehicle weight. The CDL was mandated by the Federal government in the Commercial Motor Vehicle Safety Act of 1986.

**COMMUNITY TRANSPORTATION:** The coordination of transportation resources within a community, in an efficient and effective manner to provide safe and reliable transportation services for all citizens.

**COMPLEMENTARY PARATRANSIT:** As required by the Americans with Disabilities Act, fixed route systems must offer complementary paratransit service to those

ADA-eligible riders that cannot access the fixed route service. ADA complementary paratransit services must meet a series of criteria designed to ensure they are indeed complementary.

**CONGESTION MITIGATION AND AIR QUALITY PROJECT (CMAQ):** A flexible funding program administered by the Federal Highway Administration (FHWA) that funds projects and programs to reduce harmful vehicle emissions and improve traffic conditions. CMAQ funds may be used flexibly for transit projects, rideshare projects, high-occupancy vehicle lanes, and other purposes.

**CONSOLIDATED HUMAN-SERVICE TRANSPORTATION SYSTEM:** Consolidation is the most comprehensive type of coordination and is formally defined as the joining or merging of transportation resources for the benefit of all participants. It usually requires one of the participants in the coordinated effort to take on a lead role for either 1) providing the transportation service directly via contract with the local human service agencies or other purchasers of transportation, or 2) administering the overall system and contracts for service with the local human service agencies or other purchasers of transportation as well as the service contract with a private for profit provider that actually provides the service.

**CONTRA EXPENSES:** Revenue items that offset operating expenses such as income earned on working capital, cash discounts, fuel tax refunds, and insurance claim payments. These revenues are not eligible as locally derived income.

**CONTRACT FARES:** Contract service is over and above general public service in that it requires additional work in developing

contracts, scheduling, recordkeeping and invoicing. Contract rates may be based on a per passenger, per mile, per vehicle hour basis or any combination of these factors, but they must be the fully allocated cost of providing transit service. The revenue from contracts may be used as local match.

**CONTRACT REVENUE:** Contract revenue is generated through a written contract to provide service for a third party at the fully allocated cost. Contract revenue may include administrative fees, capital replacement costs, and other costs included in the fully allocated cost.

**CONTRACT SERVICE:** The transportation of a group of people for a specified cost scheduled and paid by a third party, e.g., Title XX group transportation, Title III-B trips etc. and considered to be premium service because the service is guaranteed. Contract service must be open-door, available to the general public, offered during regular service hours, cannot interfere with the overall general public service, and must be operated in compliance with FTA charter regulations. A rate higher than the regular fare is negotiated with the contracting agency to cover the costs incurred in developing and monitoring contracts, scheduling, record keeping, and invoicing, and which takes into account the fully allocated cost of providing the service.

**COORDINATION:** A cooperative arrangement among transportation providers and/or purchasers which is aimed at realizing increased benefits and cost-effective services through the shared management and/or operation of one or more transportation related functions including shared trips, dispatching, cooperative purchases, or training classes. In its most basic form, coordination is

cooperation in the delivery of transportation services.

**COORDINATED HUMAN-SERVICE TRANSPORTATION SYSTEM:** Human service agencies and/or transit systems cooperating to coordinate some aspect of transportation, such as passenger trips, the sharing of vehicles, schedules, personnel, and maintenance facilities. May also include the consolidation of services, as appropriate.

**COST ALLOCATION:** The act of allocating costs among entities, divisions, or departments within an organization. In cost allocation, the objective is typically to allocate a known cost among several offices based on the cost per unit of resource.

**COST EFFECTIVENESS:** The ratio of the cost of a transit system to the level of service provided. Various measures may be used to determine cost effectiveness including cost per passenger trip.

**COST EFFICIENCY:** The amount of transportation services produced for the community in relation to the resources expended.

**CURB-TO-CURB SERVICE:** A common designation for demand response transit services. The transit vehicle picks up and discharges passengers at the curb or driveway in front of their home or destination. In curb-to-curb service the driver does not assist the passenger along walks or steps to the door of the home or other destination.

**CTAA:** Community Transportation Association of America. A national professional association of those involved in community transportation, including

operators, vendors, consultants, and Federal, State, and local officials.

**CTAP:** The Community Transportation Assistance Program (CTAP) created by CTAA through a cooperative agreement with the United States Department of Health and Human Services. CTAP is intended to provide human service organizations, planners, funders, and individuals with expertise, training, and support. The CTAP Peer Network, CTAPnet, is an online community of community transportation practitioners and experts where you can ask questions to, and engage in conversations with, other transit professionals.

**DBE:** A disadvantaged business enterprise is a small business which is at least 51% owned by one or more socially and economically disadvantaged individuals, or in the case of any publicly-owned business, at least 51% of the stock of which is owned by one or more socially and economically disadvantaged individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals.

**DEDICATED FUNDING SOURCE:** A funding source, which by law, is available for use only to support a specific purpose and cannot be diverted to other uses, e.g., the Federal gasoline tax can only be used for highway investments and, since 1983, for transit capital projects.

**DEMAND RESPONSE SERVICE:** 1) A transportation service characterized by flexible routing and scheduling of relatively small vehicles to provide point-to-point transportation. These services usually require advance reservations and can be curb-to-curb or door-to-door. It can also be referred to as paratransit or dial-a-ride

service. 2) Passenger cars, vans or motor buses operating in response to calls from passengers or their agents to the transit operator, who then dispatches a vehicle to pick up the passengers and transport them to their destinations. A demand-response operation is characterized by the following: first, the vehicles do not operate over a fixed route or on a fixed schedule except, perhaps, on a temporary basis to satisfy a specific need; and secondly, the vehicle typically may be dispatched to pick up several passengers at different pick-up points before taking them to their respective destinations and may even be interrupted en route to these destinations to pick up other passengers. (FTA)

**DEVIATED FIXED-ROUTE SERVICE:** This type of transit is a hybrid of fixed route and demand response services. Transit vehicles travel along a fixed route and maintain scheduled stops, but the vehicle may deviate off the route to pick up or drop off passengers, at the passenger's request.

**DIAL-A-RIDE:** Another name for "demand responsive." (APTA)

**DIRECTLY OPERATED (DO):** Transportation service provided directly by a transit agency, using their employees to supply the necessary labor to operate the revenue vehicles. This includes instances where an agency's employees provide purchased transportation services to the agency through a contractual agreement (NTD).

**DISABLED:** Any person who by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability are unable without special facilities to use the local transit facilities and

services as effectively as persons who are not so affected.

**DISPOSITION CRITERIA:** Criteria established by INDOT for determining when a vehicle, purchased with Federal and/or State funds, has met its useful life and can be disposed.

**DOOR-TO-DOOR SERVICE:** A form of demand response service that includes passenger assistance between the vehicle and the door of his or her home or other destination. This is a higher level of service than curb-to-curb, yet not as specialized as door-through-door service (where the driver actually provides assistance within the origin or destination).

**DOL:** The U.S. Department of Labor.

**ELDERLY:** For the purpose of the Section 5310 Program, elderly is defined as people age 60 and over.

**ELIGIBLE APPLICANT:** The Indiana Department of Transportation permits local public entities, public transportation corporations, regional commissions, and non-profit organizations that have been authorized to provide public transportation in the State of Indiana to be an eligible recipient of Section 5311 funds, with certain conditions and stipulations, consistent with INDOT program management practices. This is further described in **Chapter III** of the Section 5311 Program Manual.

**ELIGIBLE OPERATING EXPENSE:** The sum of the operations expenses and administration expenses.

**FARE:** The designated payment for a one-way trip on a passenger vehicle, such as cash, tokens, transfer, coupon, or pass or

other acceptable means as established by the transportation provider.

**FAREBOX:** A device that accepts coins, bills, tickets, and tokens given by passengers as payment for trips.

**FAREBOX REVENUE:** Revenue collected from passengers or third party agents at the advertised general public or elderly and disabled fares is reported as farebox revenue. Fares may be collected through bulk sale of tickets, tokens, passes, etc. or collected in cash at the time the passenger boards the vehicle.

**FARE RECOVERY:** Ratio equating fare revenue to total operating expenses. This measure indicates the level at which fares support the operations of the transit system. A relatively high ratio is preferred. Raising fare revenue and/or decreasing expenses may increase the ratio.

**FARE REVENUE:** Revenues received from fare paying passengers from regularly scheduled routes and/or demand response service. This includes base fares, zone fares, express fares, transfers, and quantity purchase discounts (passes or tickets). Also includes park-and-ride revenue and fares paid by a community-based organization rather than the rider.

**FEDERAL HIGHWAY ADMINISTRATION (FHWA):** A component of the U.S. Department of Transportation which provides funding to State and local governments for highway construction and improvements including funds which must be used for transit. FHWA also regulates the safety of commercial motor vehicle operations (vehicles which require a CDL-licensed driver). FHWA is the lead agency in

Federal intelligent transportation activities and regulated interstate transportation. For more information, see <http://www.fhwa.dot.gov/>.

**FEDERAL OPERATING ASSISTANCE:** Funds obtained from the Federal government to assist in paying the cost of operating the transit system.

**FEDERAL TRANSIT ADMINISTRATION (FTA):** A component of the U. S. Department of Transportation that administers the Federal program of financial assistance to public transit (formerly known as the Urban Mass Transportation Administration or UMTA). For more information, see <http://www.fta.dot.gov/>.

**FINANCIAL DATA:** A full disclosure of a transportation system's public, private, or coordinated financial income/expenses when accompanied by a discussion of significant events that have affected the financial picture of the system. Financial data includes, but is not limited to, the charges and costs of providing services (operating and capital), revenues generated from services (farebox and contract revenues), and revenues from other sources (grants and local match).

**FIXED ROUTE SERVICE:** Transit service is provided along a prescribed route on a scheduled basis stopping at predetermined pick up points. Routes are generally served by larger transit vehicles.

**FIXED ROUTE WITH POINT DEVIATION:** Transportation services that operate on a fixed route, but will, on demand, deviate from the route to meet the passenger's needs.

**FORCE ACCOUNT:** Any construction work performed by the grantee; does not include project administration activities.

**FRINGE EXPENSES:** Payment or accruals to others (insurance companies, governments, etc.) on behalf of an employee's share of FICA, PERF, other retirement, health insurance, and other benefits not associated with a piece of work; and/or payments or accruals directed to an employee arising from something other than their performance of a piece of work. These include uniform and clothing allowances and paid absences such as sick leave, holidays, vacation, jury duty, death in the family, and military duty, etc. Paid absences should be accounted for as a fringe benefit only when they result in a cash liability to the transit system.

**FULLY ALLOCATED COST:** The total cost of providing a specific transit service including both fixed and variable costs.

**GENERAL PUBLIC SERVICE:** A service open to the general public on a regular basis using vehicles designed to transport more than one person when a general public fare is collected. The fare may be paid with cash, a ticket, token, or pass by either the passenger or a third party. (NOTE: The revenue collected from tickets, tokens and passes sold in bulk, at the public fare price, is reported as farebox revenue NOT contract revenue.)

**GOVERNMENT OFFICIAL:** Any person who is either elected to an office or is employed by a government entity and serves as its representative at meetings, conferences, workshops, or other gatherings. Person can represent a division, department, service, or branch of a local, State, or Federal government entity.

**GRANTEE:** A recipient of government funds or equipment purchased in whole or part with government funds.

**GUARANTEED RIDE HOME:** A program that encourages employees to carpool, use transit, bike or walk to work by guaranteeing them a ride home in case they cannot take the same mode. (CTAA)

**HOLIDAYS:** Includes five major holidays: Christmas, Thanksgiving, Fourth of July, Labor Day, and Memorial Day. Many transit systems do not operate on these days. Some systems may operate a special holiday schedule that is used on these or other holidays such as Veteran's Day and Martin Luther King Jr. Day.

**HUMAN-SERVICE TRANSPORTATION SYSTEM:** A transportation system, which provides transportation services exclusively to the clients of human-service agencies.

**INDOT:** the Indiana Department of Transportation, the State agency designated to administer the Section 5311 Program in Indiana. The Office of Transit within INDOT is directly responsible for the administration and implementation of the Section 5311 Program.

**IN-KIND MATCH:** The capital or human resources provided for the operation of the transit system by the local jurisdiction. Allows a grantee to substitute labor or equipment in lieu of cash in return for services.

**INTERCITY BUS PROGRAM:** The Intercity Bus program is prescribed in accordance with 49 USC Section 5311(f) and requires that 15% of the 5311 annual apportionment be used to support intercity bus

transportation. The intercity bus program was created to provide funding for service connections between nonurbanized areas and the larger regional or national system of intercity bus service, e.g. Greyhound service. These funds may also be used for building or purchasing intermodal facilities and for marketing and planning assistance for the support of the intercity network system. The current INDOT Intercity application is available at

<http://www.in.gov/indot/2436.htm>. In addition, see the most current version of FTA Circular 9040 for further guidance [http://www.fta.dot.gov/legislation\\_law/13718.html](http://www.fta.dot.gov/legislation_law/13718.html).

**JARC:** FTA's JARC Program provides grants for competitively selected projects to improve access to transportation services to employment, job training and important activities for eligible low income individuals. The program requires coordination of federally assisted programs and services in order to make the most efficient use of available resources. Originally a separate funding program, as a result of MAP-21, JARC activities are now eligible as part of the FTA Section 5311 Program (see Section 5311 definition).

**JOINT USE ARRANGEMENT:** A joint use arrangement occurs when one or more of the resources of the coordinated transportation system participants are available for use by other participants. The resources could be vehicles, staff time, staff knowledge, or facilities.

**LARGE URBANIZED AREA:** An urbanized area with a population of 200,000 or more.

**LDI EXPENSE:** Ratio equating fare, charter, and other revenue plus local operating assistance to total operating expenses. This

measure is used to indicate the level of financial responsibility accepted at the local level for transit operations. A relatively high ratio is preferred. Increasing fare revenues, charter service, and other revenues, and/or increasing local operating assistance or decreasing operating expenses may increase the ratio.

**LOCAL ASSISTANCE:** (also Local Operating Revenue) This category includes:

- ◆ *Local Cash Grants and Reimbursements* - Funds obtained from local government units to assist in paying the cost of operating the transit system.
- ◆ *Taxes Levied Directly by Transit System* - Dedicated tax revenues systems that are organized as independent political subdivisions with their own taxation authority, e.g., Public Transportation Corporations.

**LOCAL MATCH:** The State or local funds required by the Federal government to complement Federal funds for a project. For example, in the case of public transportation, the Federal government may provide 80 percent of the necessary funds for the purchase of a vehicle if the State or local government matches 20 percent. A match may also be required by States in funding projects which are a joint State and local effort.

**LOCALLY DERIVED INCOME (LDI):** This indicator is used to measure local financial commitment to public transit and is defined as:

- ◆ Operating revenues including fares, charter, advertising, and auxiliary and nontransportation revenues.

- ◆ Taxes levied by, or on behalf of, a transit system.
- ◆ Local cash grants and reimbursements including general fund receipts, property taxes, local option income tax, excise and intangible taxes, bank building and loan funds; local bonding funds, and unrestricted federal/state funds.
- ◆ LDI does not include contra expenses (e.g. expense refunds such as motor fuel tax or insurance reimbursements) or in-kind volunteer services.

**MAP-21:** The current funding for Federal surface transportation programs, including the Federal Transit Administration's (FTA's) Section 5311 Program, is authorized in the Federal Transportation Authorization bill entitled Moving Ahead for Progress in the 21<sup>st</sup> Century, or MAP-21.

**MARKETING:** A comprehensive process to induce greater usage of transit services by determining the needs or demands of the community and potential consumers, developing and implementing service on the basis of these needs, pricing the services, promoting the services, and evaluating the services as implemented in relation to consumer needs and marketing goals.

**MATERIALS AND SUPPLIES EXPENSE:** Cost of fuel, lubricants, tires, tubes, and other materials and supplies (including repair parts, maintenance supplies, forms, and cleaning supplies, etc.).

#### **METROPOLITAN PLANNING**

**ORGANIZATION (MPO):** Metropolitan planning organizations are responsible for transportation planning and programs in

each urban area with a population of 50,000 or greater.

**MOBILITY MANAGER:** The individual charged with facilitating the implementation of the mobility management process as a means to implement coordinated transportation services as defined by a community.

**MOBILITY MANAGEMENT:** A process of managing a coordinated community-wide transportation service network comprised of the operations and infrastructures of multiple trip providers in partnership with each other (the National Center for Human Transportation Coordination).

**NTD:** National Transit Database.

**NET PROJECT COST:** The Eligible Operating Expense less any farebox or other revenues.

**NON-FORCE ACCOUNT:** Any construction work that is not performed by the grantee and is contracted out.

**NONURBANIZED AREA:** Any small urban or rural area not included in an Urbanized Area.

**NO SHOW:** Term used to describe a scheduled trip that was not cancelled by the passenger but when the driver arrived to pick up the passenger, he or she was not available for the trip.

**ON-TIME PERFORMANCE:** Refers to the percent of scheduled trips that were provided within the pickup window (usually 15 – 30 minutes before or after the scheduled pickup time).

**OUTREACH:** Efforts by the individual members of a TAC, the governing board, or its agents to share ideas or practices with

other organizations, groups, specific audience and the general public. Outreach includes the education of its audience about the benefits of transportation services for all segments of the population. It also includes listening to feedback to assure services are meeting the transportation needs of the community.

**OFFICE OF TRANSIT:** The Office within the Indiana Department of Transportation which administers INDOT's Federal and State transit programs..

**OPERATING COST:** The recurring expenses associated with the daily operations of a transportation service, including items such as fuel, drivers' and dispatchers' wages, maintenance, insurance, and vehicle registration.

**OPERATING DEFICIT:** Total operating expenses minus total operating revenue.

**OPERATING EXPENSE/PASSENGER TRIP:** Ratio equating total operating costs to total passenger trips. This measure is used to indicate the cost of providing service per unit of consumed service. A relatively low ratio is preferred. Increasing passenger trips and/or decreasing expenditures may lower the ratio.

**OPERATING INCOME:** Revenue received from fares, charter services, and other sources directly related to transit systems operations excluding revenue from Federal, state, and local cash grants. Operating income and operating subsidy are the total operating revenue for a transit system.

**OPERATING RECOVERY RATIO:** Total farebox revenue plus contract service revenue divided by total operating expenses.

**OPERATOR SALARIES AND WAGES:** The pay and allowance due employees in exchange for the labor services they render on behalf of the transit system. This category includes only those employees that are classified as revenue operators or crewmen.

**OPERATING SUBSIDY:** Revenue received through Federal, state, and local cash grants or reimbursements to fulfill operating expense obligations not covered by fares or other revenues generated by the transit system.

**OTHER EXPENSES:** On the individual system pages, Other Expenses consists of taxes and miscellaneous expenses. For Section 5311 systems it also includes leases and rentals, equipment, and in-direct expenses.

**OTHER SALARIES AND WAGES:** Payment for the labor of employees of the transit system (or sponsoring agency) that are not classified as revenue vehicle operators or crewmen. This category includes managers, dispatchers, mechanics, bus washers, building (garage) maintenance workers, managers, other professionals, and clerical staff.

**PARATRANSIT:** Types of passenger transportation that are more flexible than fixed-route transit but more structured than the use of private automobiles. Paratransit is a broad term that may be used to describe any means of shared ride transportation other than fixed-route. Paratransit services usually require advance-reservation for demand-responsive service that is either curb-to-curb or door-to-door. Paratransit services that are provided to accommodate passengers with disabilities who are unable to use fixed route service and that meet

specific service equivalency tests are called ADA complementary paratransit services. (CTAA)

**PASSENGER FARE:** The designated payment for a ride on a passenger vehicle, whether cash, tokens, transfer, coupon, electronic media or pass.

**PASSENGER MILES:** Total number of passengers carried by a transit system multiplied by the number of miles traveled.

**PASSENGER TRIP:** One person making a one-way trip from origin to destination. One round trip, e.g., from home to shopping, then from shopping to home, equals two passenger trips.

**PASSENGER TRIPS/CAPITA:** Ratio equating total passenger trips to service area population. Increasing passenger trips and/or decreasing service area population may increase the ratio.

**PEAK HOUR FLEET:** The largest number of revenue vehicles operating at any peak time during an average weekday of operation.

**PEAK PERIOD:** The hours during a day (typically 6:00 a.m. to 9:00 a.m. and 3:30 p.m. to 6:00 p.m.) when the maximum amount of travel occurs. Other peak periods may be established depending on an individual system's experience.

#### **PERSONAL CARE**

**ATTENDANTS/COMPANIONS:** Persons eligible under ADA regulations must be allowed a personal care attendant (PCA) that is traveling with the eligible rider. A PCA is someone designated or employed specifically to help the eligible individual meet his or her personal needs. In addition

to a PCA, the regulations require that service be provided to one companion accompanying an eligible rider. Other persons accompanying the rider are to be accommodated on a space available basis. Persons are considered to be accompanying the eligible rider if they are picked up and dropped off at the same locations as the eligible rider. Companions must be charged the same fare as the eligible rider, and the PCA must ride free.

**POINT DEVIATION:** Transportation service in which the transit vehicle is required to arrive at designated stops in accordance with a prearranged schedule but is not given a specific route to follow between these stops. It allows the vehicle to provide curbside service for those who request it.

**PUBLIC HEARING:** A public hearing is a formal meeting held to set aside time for public testimony on a particular subject matter for which a notice was published in the official newspaper or a common website of the region. It is a mandatory meeting as required by a funding source and must meet State public access laws, if applicable. Examples of public hearings are: 1) public transportation service changes or 2) a grant application comment period.

**PUBLIC MASS TRANSPORTATION FUND (PMTF):** A state fund approved by Indiana's legislators to leverage local and federal money to meet transit needs.

**PUBLIC MEETING:** A public meeting is held to notify the public of a new service or happening within the coordinated transportation program. A public meeting is held to notify the public about a change that comes about as a result of a public hearing. These meetings must meet State public access laws, if applicable.

**PUBLIC TRANSPORTATION:**

Transportation service that is available to any person upon payment of the fare and which cannot be reserved for the private or exclusive use of one individual or group. "Public" in this sense refers to the access to the service, not the ownership of the system providing the service. Public transportation service must be open door. Public transportation must provide a shared-ride on a regular basis. Shared ride means two or more passengers in the same vehicle who are otherwise not traveling together. Every trip does not have to be a shared ride but the general nature of the service must include shared rides.

**PURCHASED TRANSPORTATION**

**EXPENSES:** Operating expenses incurred when a transit system purchases a portion of its service from another entity (e.g., contracting with a private organization to provide specialized transit services).

**PURCHASING AGENCY:** An organization or human service agency that purchases transportation services from a third party for its clients.

**RECONCILING ITEMS:** Operating expenses which include interest expenses, leases and rentals for urbanized transit systems, depreciation, amortization of intangibles, purchase lease payments, related party lease agreements, and other as defined in the FTA Section 5335 (15) Manual.

**REVENUE VEHICLE MILES:** The total mileage incurred in scheduled service (miles in each route multiplied by the number of times each route is run) during the report period. Excludes non-service mileage (deadhead, training, etc.), charter mileage,

exclusive school service mileage, and mileage lost due to missed runs.

**RIDERSHIP CHANGES:** Changes in the level of passengers transported within a measurable time period. Changes are usually measured as either increases or decreases.

**RTAP:** Rural Transit Assistance Program. A program of the Federal Transit Administration, with both a National component and a State component (see the Indiana RTAP Program, [www.indianartap.org](http://www.indianartap.org)), dedicated to creating rural transit solutions through technical assistance, partner collaboration and free training and other transit industry products. See [www.nationalrtap.org](http://www.nationalrtap.org).

**RISK MANAGEMENT:** An element of a transit system's safety management program. It includes identification and evaluation of potential safety hazards for employees, passengers and the public.

**ROAD CALL:** Any situation which requires assistance from the maintenance department while the vehicle is in revenue service. The assistance requires a mechanic or support personnel to meet the vehicle on route or at a layover point. Examples: Switch vehicle on route, replace headlight, low tire pressure, or malfunctioning passenger ramp/door.

**SECTION 504:** The section of the Rehabilitation Act of 1973 which states, in part, that no disabled individual shall be denied the benefits of any program or activity receiving Federal financial assistance. See **Chapter III**, Federal Compliance, of this Manual for further information.

**SECTION 5307:** The section of the Federal Transit Act that authorizes grants to public transit systems in all urban areas. Funds authorized through Section 5307 are awarded to states to provide capital and operating assistance to transit systems in urban areas with populations between 50,000 and 200,000. Transit systems in urban areas with populations greater than 200,000 receive their funds directly from FTA. For the FTA Circular 9030 for this program, see [http://www.fta.dot.gov/legislation\\_law/13718.htm](http://www.fta.dot.gov/legislation_law/13718.htm).

**SECTION 5309:** The section of the Federal Transit Act that authorizes discretionary grants to public transit systems for capital projects such as buses, bus facilities and rail projects. For the current FTA Circular 9300 for this program, see [http://www.fta.dot.gov/legislation\\_law/12349.html](http://www.fta.dot.gov/legislation_law/12349.html).

**SECTION 5310:** The section of the Federal Transit Act that authorizes capital assistance to states for transportation programs that serve the elderly and people with disabilities. States distribute Section 5310 funds to local operators in both rural and small urban settings that are either nonprofit organizations or the lead agencies in coordinated transportation programs. For the most recent version of FTA Circular 9070 for this program, see [http://www.fta.dot.gov/legislation\\_law/13718.htm](http://www.fta.dot.gov/legislation_law/13718.htm).

**SECTION 5311:** The section of the Federal Transit Act that authorizes capital and operating assistance grants to public transit systems in areas with populations of less than 50,000. For the most recent version of FTA Circular 9040 for this program, see

[http://www.fta.dot.gov/legislation\\_law/13718.htm](http://www.fta.dot.gov/legislation_law/13718.htm).

#### **SECTION 5316, JOB ACCESS/REVERSE**

##### **COMMUTE PROGRAM:** FTA's JARC

Program provided grants for competitively selected projects to improve access to transportation services to employment, job training and important activities for eligible low income individuals. The program also required coordination of federally assisted programs and services in order to make the most efficient use of available resources. Originally a separate funding program, MAP-21 consolidated JARC activities into the FTA Section 5311 Program (see above definition).

#### **SECTION 5317, NEW FREEDOM**

**PROGRAM:** The New Freedom Program was authorized in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users (SAFETEA-LU) to support new public transportation services and public transportation alternatives beyond those require by the Americans with Disabilities Act of 1990 (ADA) that assists individuals with disabilities with transportation, including transportation to and from jobs and employment support services. Originally a separate funding program, MAP-21 consolidated New Freedom activities into the FTA Section 5310 Program (see above definition).

**Section 5339, Bus and Bus Facilities:** The Section 5339 Program replaced the Section 5309 Bus and Bus Facilities Program. Section 5339 provides capital funding to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities. Funds are allocated to the states, and these funds are eligible to be transferred by the States to supplement urban and rural formula grant programs. In Indiana, INDOT

uses Section 5311 funds primarily for operating projects and Section 5339 funds for capital purchases. Both sources of funds are awarded through a single annual application process (see the 5311/5339 Application on the INDOT website, <http://www.in.gov/indot/2436.htm>, and also further discussed in **Chapters II and III** of this manual).

**SERVICE AREA:** The geographic area that coincides with a transit system's legal operating limits (i.e., urbanized area, city limits, or county boundary).

**SERVICE AREA POPULATION:** The entire population within the legal operating limits of the transit system, as reported by the 2010 Census.

**SERVICE EXPENSES:** Fees and related expenses for labor and other work provided by outside organizations. In most instances, service from an outside organization is procured as a substitute for in-house employee labor, except in the case of independent audits which cannot be performed by employees. This category includes:

***Advertising Fees*** - The labor and materials provided by an advertising agency in the development and promotion of advertising campaigns. Also included are advertising media fees, regardless of whether they are paid to the advertising agency or to the media.

***Contract Maintenance Service Expenses*** - Payment for the maintenance of equipment, under contract or on a single-job basis, by an outside organization. This category is for repair or maintenance work on

operating vehicles, equipment, and garage buildings, and is to be differentiated from professional and custodial services.

**Professional and Technical Service Fees** - Payment for the labor provided by attorneys, accountants, auditors, marketing firms, investment bankers, computer service companies, engineering firms, management consultants, and transit industry consultants, etc.

**SERVICE PROVIDER:** A private nonprofit or for-profit agency providing all or a portion of the transit service under contract to a Rural Transit grantee.

**SERVICE ROUTE:** A hybrid between fixed route and demand response service. Service routes are established between targeted neighborhoods and the service areas that riders want to reach. Similar to deviated fixed routes, service routes are characterized by flexibility and deviation from fixed route intervals. However, while deviated fixed routes require advanced reservations, service routes do not. A service route can include both regular, predetermined bus stops and/or allow riders to hail the vehicle and request a drop-off anywhere along the route.

**SMALL URBANIZED AREA:** A municipality with a population of at least 5,000 but less than 50,000 and which is not a part of an existing Urbanized Area.

**SPARE RATIO:** A set percentage or number of vehicles based on fleet size set aside to be used to replace (or back-up) vehicles which are out of service. FTA guidelines for spare ratios are 2 vehicles for fleets of up to 10 vehicles; 20% for vehicle fleets of 11 and

over. Spare ratios must include vehicles which are wheelchair-lift accessible.

**STANDARD VAN (SV):** Standard vans typically seat five to fifteen passengers. Standard vans are available from automobile manufacturers and are part of their standard production line. INDOT no longer purchases these vehicles.

**STANDING ORDERS:** Used in demand response services where passengers are required to call in advance to place a request for service, a standing order is a scheduling practice that allows passengers to request the same service, i.e. a reoccurring trip, for several days or weeks without having to call each day or week to schedule. For example, a person that has a medical appointment every Monday afternoon might call at the beginning of each month to schedule all of his or her Monday afternoon trips for that month. The person would call back only if a trip were to be cancelled. Standing orders, as any other request for service, are subject to a transit system's no show and cancellation policies.

**SUBSCRIPTION SERVICE:** Transportation service provided under advanced arrangements and according to prearranged conditions, e.g., hours, days, specific routing. The service may be paid for by an individual, group of individuals, or company. This is the only time an individual or group of individuals may be billed for service. Service is guaranteed, usually arranged for an extended period of time, e.g., six months, one year, etc., and is paid for regardless of whether anyone rides the service. Subscription service does not necessarily need to be fully allocated. Subscription service differs from contract service in that under subscription service the individuals, routes, and destinations never change for

the duration of the subscription, and revenue collected from subscription service is counted as farebox revenue. Subscription service is open to the public.

**SUBSIDY/PASSENGER TRIP:** Ratio comparing government operating assistance (Federal, state, and local) to total passenger trips. This measure is used to indicate the level of Federal, state, and local assistance used in operating the transit service.

**TAC:** Transportation Advisory Committee – A committee established to advise the transportation system’s governing board.

**TOTAL PASSENGERS:** The total number of all revenue passengers, including general service, elderly and disabled, contract, and free ride passengers. Transfers are counted separately.

**TOTAL PROJECT COST:** The total administration expenses and operations expenses.

**TOTAL VEHICLE MILES:** The total distance traveled by revenue vehicles, including both revenue and deadhead (non-revenue) miles.

**TRANSFERS:** Any trip with a single origin and single destination which requires getting off one vehicle and onto another involves a transfer. The trip is recorded as one passenger trip and one transfer. If the passenger gets off the bus at one destination (store A) then gets back on the bus at a later time to ride to a different destination (store B), it is recorded as two passenger trips.

**TRANSFER CHARGE:** A fee charged passengers that transfer to a line or route after paying a fare on another line or route.

**TRANSIT BUS:** A transit bus seats anywhere from 16 to 53 passengers and has both a body and a chassis that are designed specifically for transit use. One supplier manufactures the entire vehicle. Most transit buses are equipped with diesel engines.

- ◆ Small Transit Bus (STB) - Under 30’
- ◆ Medium Transit Bus (MTB) - 30’ to 34’
- ◆ Large Transit Bus (LTB) - 35’ to 40’
- ◆ Trolley (TY) - Usually 30’ to 35’
- ◆ Articulated (ART) - Multi-section high occupancy vehicle

**TRANSIT DEPENDENT:** A person who does not have immediate access to a private vehicle or because of age or health reasons, cannot drive and must rely on others for transportation.

**TRANSPORTATION PROVIDER:** An organization, company, human service agency, or other entity that provides transit services for its clients and/or the general public either on a donation or fare basis.

**TRIP:** A trip is made by one person from one origin to one destination. Many transit statistics are based on passenger trips, which refer to individual one-way trips made by individual riders.

**TRIP DENIAL:** In a demand response system, a trip denial occurs when a passenger’s trip request cannot be accommodated due to capacity constraints. Trip times can be negotiated with the passenger as long as the new trip time does not go beyond one hour prior or one hour past the requested time. Even if the trip can be accommodated outside of this “window,”

it is a trip denial. INDOT requires Section 5311 program grantees to track and report these trip denials.

**TRIP GENERATOR:** A place that generates a demand for frequent travel is called a trip generator. Trip generators may be origins or destinations. For example, a trip generator could be a residential area, employment area/business park, shopping and retail areas, or recreational area.

**TRIP REFUSALS:** Trip refusals are trips requested outside the systems service hours or service area and the transit system is unable to provide the service.

**TRIP TURNDOWNS:** Trip requests that are refused by a passenger. For example, a passenger requests an 8:00 a.m. pick-up time and the system cannot provide it. However, the system is able to provide a later trip and offers an 8:30 a.m. pick-up time. If the passenger declines the 8:30 a.m. trip, the trip is documented as a turndown. This is a turndown because the system is able to provide the trip within the one hour window required by ADA.

**USEFUL LIFE:** The term used to define how long a vehicle or equipment can be expected to be operated or used. Usually expressed in years or miles operated and varies with the type of vehicle.

**USER SIDE SUBSIDY:** A type of transit system whereby the passenger purchases tokens or vouchers at designated sale sites and presents the token to a service provider (e.g., taxi company) in exchange for a trip. The price of the token or pass is less than the cost of the trip. The token is then subsidized with Federal, state, or local funds and the taxi operator is reimbursed for the cost of the trip.

**UTILITY EXPENSE:** Payments made to various utilities for use of their resources including electric, gas, water, sewer, garage collection, and telephone, etc.

**UNITED WE RIDE (UWR):** The Federal CCAM interagency initiative aimed at improving the availability, quality, and efficient delivery of transportation services for older adults, individuals with disabilities, and people with low incomes. For more information, see <http://www.unitedweride.gov/>.

**VANPOOL:** A prearranged ridesharing service in which a number of people travel together on a regular basis in a van. Vanpools may be publicly operated, employer operated, individually owned or leased.

**VEHICLE REPLACEMENT SCHEDULE:** The scheduled replacement of vehicles based on a vehicle's expected useful life.

Please note, many terms in this glossary are defined in more detail within the narrative of the appropriate chapter and, in many cases, pertain specifically to INDOT policies and procedures for administering the Section 5311 Program in Indiana. Transit glossaries are also available through these websites: <http://www.ctaa.org/ntrc> and <http://www.apta.com/info/online/glossary.htm>.