



# Transit

## State Management Plan

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

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TRANSIT

**STATE MANAGEMENT PLAN**  
**North Dakota Department of Transportation**

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## OVERVIEW

### **PURPOSE**

The North Dakota State Transit Management Plan serves as a guide for the North Dakota Department of Transportation in utilizing the financial resources available to meet the desired transit improvement goals and objectives of this state.

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

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

It should be noted that the state's transit program guidelines and regulations contained herein closely parallel the Federal Transit Administration's (FTA) program guidelines and regulations with some variations to provide for state policies and procedures pursuant to North Dakota's transit goals and objectives. FTA regulations can be found at FTA's website at [fta.gov](http://fta.gov). Click on "legislation, regulations, and guidance" or "Grants and Financing" for more specific information.

Re-evaluation of policies will be considered on an ongoing basis. If you have comments or a request for revision, please forward it to the NDDOT Transit staff.

### **NORTH DAKOTA STATE TRANSIT GOAL**

The goal of the state's transit programs (both federal and state funding programs) is to increase the mobility of transportation disadvantaged persons and general population in all areas and localities of North Dakota, and thereby increase access to health care, shopping, education, recreation, public services, and employment. This will be accomplished by establishing and supporting public and special needs passenger transportation systems wherever needed and appropriate throughout the state.

### **NORTH DAKOTA STATE TRANSIT OBJECTIVES**

The goal "to provide a safe, efficient, environmentally sound and fiscally responsible transportation system that promotes economic growth and enhances the quality of life in North Dakota" by increasing mobility for persons in all areas of North Dakota can be accomplished by utilizing the available federal and state funding programs to:

1. Provide operating funds to support and maintain existing transit services and also assist

in establishing new services, so transportation disadvantaged persons and general population in all areas of the state will have access to at least a minimum level of public or special needs transportation services.

2. Provide capital funds to existing public as well as special needs transportation systems to upgrade their buses and related transit equipment and ensure the continued viability of these systems and the transit services they provide.
3. Provide grant funds to maintain and promote coordination of transportation systems and services in the state.
4. Provide technical assistance to existing and new public and special needs transportation systems to increase the effectiveness and efficiency of their transit services.
5. Work with all other state agencies involved in providing transportation services to coordinate state and federal transportation programs.

## **TRANSIT FUNDING IN NORTH DAKOTA**

There are federal and state transit funding programs available to North Dakota to plan, support, and improve public transit services. The federal transit funds are received annually from FTA. The state funds are appropriated every two years by the North Dakota State Legislature.

Section 5307 Large Urban Cities and Section 5311(c) Public Transportation on Indian Reservations are administered directly by the FTA in the Region VIII office, and FTA contracts directly with the local project recipients. North Dakota Department of Transportation provides limited oversight of these programs and the related funds. Section 5309 is a discretionary capital program funded by FTA. This program has provided additional transit support to North Dakota in recent years but is not necessarily funded each year.

## **FTA AND STATE TRANSIT FUNDING PROGRAMS**

A brief listing of each of the transit funding programs is provided below. Detailed information on these programs is provided in the **BACKGROUND AND CURRENT INFORMATION** section of this document.

- |             |                       |
|-------------|-----------------------|
| <b>5303</b> | Metropolitan Planning |
| <b>5304</b> | Statewide Planning    |
| <b>5307</b> | Large Urban Cities    |

- 5309** Major Capital Investments (including New Starts & Small Starts)
- 5310** Transportation for Elderly Persons and Persons with Disabilities
- 5311** Rural and Small Urban Areas
  - 5311(b)** Rural Transit Assistance Program (RTAP)
  - 5311(c)** Public Transportation on Indian Reservations
  - 5311(f)** Intercity Bus Program
- 5316** Jobs Access and Reverse Commute Funds (JARC)
- 5317** New Freedom Program
  - North Dakota State Aid for Public Transit

## **NORTH DAKOTA DEPARTMENT OF TRANSPORTATION TRANSIT PROGRAM ADMINISTRATION**

### **ADMINISTERING FEDERAL TRANSIT PROGRAMS**

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

In 1979, when the Section 5311 Rural Transit Assistance Program was implemented by FTA, the Governor again designated the state Department of Transportation to administer this program as well. This designation was dated January 5, 1979. Documentation of these designations is on file with the FTA Region VIII office.

### **ADMINISTERING STATE AID FOR PUBLIC TRANSIT PROGRAM**

In 1989, when the North Dakota State Legislature passed legislation (HB 1337) providing State Aid for Public Transit in North Dakota, the Department of Transportation (the Director) was also assigned the responsibility of administering this new program. The Director's assigned responsibility was part of the State Aid legislation. The State Aid for Public Transit program is listed in the North Dakota Century Code (NDCC) in Section 39-04.2-04.

## **State and Federal Transit Administration Offices and Addresses**

### **State Transit Office**

The state and federal transit programs are administered by the North Dakota Department of Transportation are executed by the Local Government Division within the Department of Transportation. The contact information is:

**Local Government Division  
North Dakota Department of Transportation  
608 East Boulevard Avenue  
Bismarck, ND 58505-0700  
Phone (701) 328-2194  
Fax (701) 328-0310**

### **Federal Transit Administration Region VIII Office**

The federal transit funds provided to the North Dakota Department of Transportation for transit support and improvement in North Dakota, as well as the federal funds that flow directly to cities and tribal governments in this state, are administered by the Federal Transit Administration (FTA) out of its Region VIII office in Colorado. The contact information is:

**FTA Region VIII Office  
12300 West Dakota Avenue, Suite 310  
Lakewood, CO 80228-2583  
Phone (720) 963-3300  
Fax (720) 963-3333**

## **BACKGROUND AND CURRENT INFORMATION**

The following section provides background and detailed information on the various transit assistance programs currently administered in North Dakota.

### **FTA SECTION 5303 – METROPOLITAN PLANNING**

Passage of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) initiated an annual apportionment of two categories of transit planning funds to the states. These planning funds were provided to carry out the new Metropolitan Area and Statewide Planning requirements set forth in ISTEA. The first apportionments of these transit planning funds were made to the states in 1991. Under the Safe, Accountable, Flexible, Efficient, Transportation Equity Act – A

Legacy for Users (SAFETEA-LU), signed into law in August 2005, planning requirements for metropolitan areas were consolidated into Section 5303. This Section now matches the highway planning language.

Section 5303 provides an annual apportionment of federal transit planning funds to North Dakota to support cooperative, continuous, and comprehensive planning for making transportation investment decisions in metropolitan areas. The funds are administered by the North Dakota Department of Transportation to the state's three metropolitan areas of Bismarck, Fargo, and Grand Forks. These transit planning funds are combined with federal highway planning funds into a Consolidated Planning Grant (CPG) pool to support all transportation planning activities in the three metropolitan areas.

The three urbanized areas have each established Metropolitan Planning Organizations (MPOs). They conduct various transportation planning activities (including both transit and urban streets/highways) in their respective metropolitan areas.

## **FTA SECTION 5304 – STATEWIDE PLANNING**

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

Funding for rural transit needs is generally funded with state planning and research funds. (SPR) Requests for planning needs can be made to the NDDOT transit office at any time.

Any Section 5304 funds shifted to the metropolitan areas are rolled into the Consolidated Planning Grant pool. The pooling of the FTA and FHWA planning funds allows flexibility in transportation and urban street and highway planning activities. Budget tracking and cost billing are also greatly simplified. Section 5304 and Section 5303 funds are distributed to the three MPOs by means of a distribution formula developed by the MPOs and approved by the Urban Programs Section of the Local Government Division. This formula is approved by FTA and is on file with the Urban Programs Section of this Division.

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

The urban area submits invoices for reimbursement quarterly / monthly to the Urban Programs Section of the Local Government Division.

## **FTA SECTION 5307 – URBANIZED AREA FORMULA PROGRAM**

Section 5307, the Urbanized Area Formula Program, was initiated by Congressional passage of the 1974 Urban Mass Transportation Administration (UMTA) Act and subsequent federal transit legislation. This program provides federal funds to the Governors for transit capital, operating, and planning assistance to urbanized areas having populations between 50,000 and 200,000 as designated by the U.S. Department of Commerce, Bureau of the Census. The general program requirements for the Urbanized Area Formula were not changed under SAFETEA-LU (49 U.S.C.5307).

The program provides an annual apportionment of federal transit funds to North Dakota to support and improve public transit services in urbanized areas. The funds (which can be expended for capital, operating, administration, and planning needs) are administered directly by FTA Region VIII and are made available to North Dakota's three urbanized areas of Bismarck, Fargo, and Grand Forks.

In North Dakota, these funds are received by the Governor and assigned to the state's three urbanized areas. The program is administered directly by the FTA Region VIII office, and the Section 5307 funds flow directly from FTA to the three urbanized areas. NDDOT provides limited oversight of this program. The Department has the option of moving or reassigning the program funds among the three urbanized areas as well as between the other FTA transit programs. The funds lapse four years after the time of apportionment if not obligated by the urbanized areas within the time frame.

## **FTA SECTION 5309 – BUS AND BUS FACILITIES**

Section 5309 is a program used to provide capital assistance for new and replacement buses, related equipment, and facilities. Federal funds under this program are not annually apportioned to the states but are nationally competitive and require a specific Congressional discretionary grant to obtain. The program requirements under the Capital Investment Grant (49U.S.C.5309) were not changed under the SAFETEA-LU legislation. This Department administers the rural portion of these grants (projects in localities under 50,000 in population). The three urbanized areas in the state (Bismarck, Fargo, and Grand Forks) generally receive their portions of the statewide discretionary grants directly from the FTA Region VIII office. Projects located within a metro planning region should follow the region's planning process.

Urban: Requests from providers in metro areas can be forwarded to the local MPO for consideration. During January of each year the urban providers submit capital needs for their metro area to the NDDOT for inclusion in a grant application. If the funding is granted, an

additional application is not generally required. If funding requested is more than funding received, NDDOT management staff generally makes the final determination of funding split.

Rural: A consolidated application form for Federal Transit Administration grant funding for Sections 5309, 5310 and 5311 was created by the NDDOT to simplify the federal grant application process for rural transit projects. The consolidated federal grant application allows rural transit projects to apply for operating, administrative and capital grant funding using a single application. Intercity carriers are also eligible for Section 5309 grant funding provided all federal qualifications are met. A copy of this application is included in the North Dakota Department of Transportation Transit Policies and Procedures Manual or on the internet.

Section 5309 grant funding is available for the year in which it is appropriated plus an additional two years (for a total of three years).

## **FTA SECTION 5310 – TRANSPORTATION FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES**

Section 5310 provides an annual apportionment of federal transit capital (only) funds to North Dakota for purchasing buses, vans, and other transportation related hardware and equipment for transportation of the elderly and persons with disabilities. This program is reserved for capital purchases in rural North Dakota (areas and localities under 50,000 in population).

Federal Transit Law, as amended by SAFETEA-LU, requires projects selected for funding under Section 5310 be derived from a locally developed, coordinated public transit/human services transportation plan. These plans identify the transportation needs of individuals with disabilities, older adults, and people with low incomes, provide strategies for meeting these needs, and prioritize transportation services for funding and implementation. Eligible subrecipients are private nonprofit organizations, governmental authorities where no non-profit organizations are available to provide service, and intercity carriers, providing all federal qualifications are met.

Rural: Since the available Section 5310 capital funds to North Dakota are relatively small in terms of the statewide vehicle needs, these funds will be used to fund Elderly and Disabled bus and van grants to transit projects located only in the rural areas of the state (i.e., localities under 50,000 in population). Because of the high demand for transit vehicles and operating support, it is the intent of the NDDOT that Section 5310 funds will not be used for grants to purchase transit related buildings or land.

Urban: It is the intent of the NDDOT to fund capital needs in the metro areas with 5309 funds.

Section 5310 grant funding is available for the year in which it is appropriated plus an additional two years (for a total of three years). A copy of the consolidated application form for FTA Section 5309, 5310, and 5311 grant funds is included in the NDDOT Transit Policies and Procedures

Manual or on the internet.

## **FTA SECTION 5311 – RURAL AND SMALL URBAN AREAS**

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

Section 5311(f) requires NDDOT to spend 15 percent of its annual Section 5311 apportionment to carry out a program to develop and support intercity bus transportation, unless the Governor certifies the intercity bus service needs of the State are being adequately met. Intercity bus service is defined as “regularly scheduled public bus service that operates with limited stops between two urbanized areas or connects rural areas to an urbanized area.” The goals for the North Dakota intercity bus program can be found in the NDDOT Transit Policies and Procedures Manual.

Section 5311 grant funding is available for the year in which it is appropriated plus an additional two years (for a total of three years). A copy of the consolidated grant application form for Section 5309, 5310, and 5311 funding can be found in the NDDOT Transit Policies and Procedures Manual or on the internet.

## **FTA SECTION 5311(b)(3) – RURAL TRANSIT ASSISTANCE PROGRAM (RTAP)**

The Section 5311(b)(3) Rural Transit Assistance Program (RTAP) is a companion program to the Section 5311 rural formula program. It was established under the Federal Mass Transportation Act of 1987.

Section 5311(b)(3) RTAP is administered by the Department in conjunction with the Section 5311 program. The Rural Transit Assistance Program provides an annual apportionment of federal funds to the state for transit training, technical assistance, and other support activities to enhance transit operations and services in the state’s rural areas. These are 100% federal funds with no local match required.

Rural transit providers and urban providers in cities with population less than 50,000 are eligible for RTAP funding. Application for RTAP expenditures can be found in the NDDOT policy and procedure manual or on the NDDOT transit web site. Application should be made to the transit office 30 days prior to training date.

The North Dakota and South Dakota Departments of Transportation support the Dakota Transit Association (DTA), an organization that represents North Dakota and South Dakota transit

providers. DTA provides training for subrecipients a minimum of twice each year, alternating locations between the two states. DTA also offers Passenger Service and Safety Certification (PASS) training, Defensive Driving, and Maltreatment and Abuse training that is available for all bus drivers in both states. DTA sponsors a joint annual Bus Rodeo in conjunction with its fall conference for North Dakota and South Dakota bus drivers, with an opportunity for winners from each state to attend the national Community Transportation Association of America Bus Rodeo. In addition to reimbursing expenses for DTA events for transit agency administrators and appropriate agency personnel, NDDOT encourages transit directors to attend regional and national training events that provide opportunities for professional development and certifications.

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

## **FTA SECTION 5311(c) – PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS**

Section 5311(c) authorizes direct grants to Federally-recognized Indian Tribes for any purpose eligible under FTA's Rural and Small Urban Area Formula Program, 49 U.S.C. 5311 including planning, capital and operating assistance for rural public transit services, and support for rural intercity bus service. Funds are allocated based upon an annual national competitive selection process conducted by FTA. The Conference Report to SAFETEA-LU indicated the funds set aside for Indian Tribes in the Tribal Transit Program are not meant to replace or reduce funds that Indian Tribes receive from states through FTA's Rural and Small Urban Areas Formula Program. There are no matching fund requirements for 5311(c) funds.

To encourage transit service coordination and consolidation in the state, if a new eligible transit service provider/applicant requests Section 5311 assistance and is located within the service area of an existing multi-county or regional transit project, any funds approved for the new service provider must be administered through the regional project. The new service provider/applicant must agree to this condition before it can apply for or receive federal grant funding through this Department.

Funds apportioned under this program are available for obligation for a period of two federal fiscal years following the fiscal year for which they are apportioned.

## **FTA SECTION 5316 – JOB ACCESS & REVERSE COMMUTE PROGRAM (JARC)**

The purpose of the Job Access and Reverse Commute (JARC) Program is to develop

transportation services designed to transport welfare recipients and low income individuals to and from jobs, and to develop transportation services for residents of urban centers and rural and suburban areas to suburban employment opportunities. Emphasis is placed on projects that use mass transportation services. Under SAFETEA-LU, this program became administered as a formula project.

Under Section 5316, JARC funds may finance capital projects and operating costs of equipment, facilities, and associated capital maintenance items related to providing access to jobs; promote use of transit by workers with nontraditional work schedules; promote use by appropriate agencies of transit vouchers for welfare recipients and eligible low income individuals; and promote use of employer-provided transportation including the transit pass benefit program.

FTA requires, as provided under amendment in the SAFETEA-LU legislation, projects selected for funding under Section 5316 be derived from a locally developed, coordinated public transit/human services transportation plan. The plan must be developed through a process that includes representatives of public, private, and non-profit transportation and human services providers, as well as including participation by members of the public. These plans must identify the transportation needs of individuals with disabilities, older adults, and people with low incomes, provide strategies for meeting these needs, and prioritize transportation services for funding and implementation. Projects located within a metro planning region must also follow with the region's planning process.

Urban: Requests from providers in metro areas can be forwarded to the local MPO for consideration. Each MPO advertises available funds, collects and prioritizes the applications for their area and then submits them to NDDOT for consideration.

Section 5316 grant funding is available for the year in which it is appropriated plus an additional two years (for a total of three years). Applications for Section 5316 funding can be found in the NDDOT Transit Policies and Procedures Manual or on the internet.

## **FTA SECTION 5317 – NEW FREEDOM PROGRAM**

Section 5317, New Freedom, was introduced as a new public transportation program under SAFETEA-LU. The purpose of the New Freedom program is to encourage services and facility improvements to address the transportation needs of persons with disabilities that go beyond those required by the Americans with Disabilities Act of 1990 (ADA).

FTA requires, as provided under amendment in the SAFETEA-LU legislation, that projects selected for funding under Section 5317 be derived from a locally developed, coordinated public transit/human services transportation plan. The plan must be developed through a process that includes representatives of public, private, and non-profit transportation and human services providers, as well as including participation by members of the public. These plans must identify the transportation needs of individuals with disabilities, older adults, and people with low incomes,

provide strategies for meeting these needs, and prioritize transportation services for funding and implementation. Projects located within a metro planning region must also follow with the region's planning process.

Section 5317 provides a formula grant program for associated capital and operating costs. Funds allocated through the formula are based upon the population of persons with disabilities. Matching share requirements are flexible to encourage coordination with other federal programs that may provide transportation such as Health and Human Services or Agriculture.

All public transit providers identified under Sections 5307 and 5311 are eligible to apply for their respective 5317 funds (small urban or rural). Other organizations, agencies and/or individuals interested in pursuing funding under Section 5317 are encouraged to work with other like-minded agencies and their local public transit project under the required locally developed, coordinated public transit/human services transportation plan to develop an application for funding. Applications for funding can be found in the NDDOT Transit Policies and Procedures Manual.

Urban: Requests from providers in metro areas can be forwarded to the local MPO for consideration. Each MPO advertises available funds, collects and prioritizes the applications for their area and then submits them to NDDOT for consideration.

Section 5317 grant funding is available for the year in which it is appropriated plus an additional two years (for a total of three years). Applications for Section 5317 funding can be found in the NDDOT Transit Policies and Procedures Manual or on the internet.

## **NORTH DAKOTA STATE AID FOR PUBLIC TRANSIT PROGRAM**

In 1989, the North Dakota State Legislature enacted House Bill 1337 which initiated State Aid Funding for Public Transit in North Dakota. This state legislation established a state Public Transportation Fund to provide transit aid payments to political subdivisions and nonprofit corporations in each county for the purpose of establishing and supporting public transit services. Revenue for the Public Transportation Fund in North Dakota was previously derived from an annual motor vehicle registration (license plate) fee.

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

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

A copy of the grant application for State Aid for Public Transit can be found in the NDDOT Transit Policies and Procedures Manual.

Guidance for providers for all programs can be found in the NDDOT Policy and Procedure Manual located on the NDDOT Transit Web site.

## **METROPOLITIAN AREA PARTICIPATION**

Cities larger than 50,000 in population commonly form a planning organization. Fargo, Bismarck and Grand Forks have Metro Planning Organizations or Councils of Governments. NDDOT has partnered with the MPOs and COG with Memorandums of Understanding. The MPO/COG are the lead agencies in transportation planning in their areas. The MPO/COG solicits, reviews, and prioritizes transit projects in each area. Projects are then submitted to NDDOT.

MPO/COG leads coordination efforts in the areas. All projects must be in the MPOs Long Range Transportation Plan (LRTP), the Transportation Improvement Plan (TIP), and the locally derived human services public transportation coordination plan. The MPO also has private sector planning that must be followed within the MPO study area. Changes to each plan must be made thru the appropriate process in each area.

Contact the MPO/COG in your area for further details.

Bismarck/Mandan MPO	<a href="mailto:bjehreth@nd.gov">bjehreth@nd.gov</a>
Fargo/Moorhead COG	<a href="mailto:kline@fmmetrocog.org">kline@fmmetrocog.org</a>
Grand Forks/East Grand Forks MPO	<a href="mailto:earl.haugen@theforksmmpo.org">earl.haugen@theforksmmpo.org</a>

## **PRIVATE SECTOR PARTICIPATION**

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

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

To encourage transit service coordination and consolidation in the state, if a new eligible transit service provider/applicant requests Section 5310 or Section 5311 assistance and is located within the service area of an existing transit project, any funds approved for the new service provider must be administered through the existing funded subrecipient.

In keeping with FTA's continued emphasis on participation of private, for-profit transportation providers in the planning and delivery of federally funded transit services (privatization), the North Dakota Department of Transportation has developed a transit policy statement to address this issue. This policy statement also contains an appeals process available to private operators for resolving local transit service disputes.

## **NDDOT TRANSIT POLICY STATEMENT – PRIVATE SECTOR INVOLVEMENT**

It shall be the policy of the North Dakota Department of Transportation to provide the opportunity for utilizing the capabilities and resources of the private sector to meet the demand for rural public and special needs transportation services in North Dakota. The MPO/COGs have a private sector planning process that must be followed within the MPO/COG study area.

Private providers will be encouraged to participate in the development of new transit projects considered for funding under the Sections 5310 and 5311 programs.

An appeal process for resolving local disputes involving private operators can be found in the NDDOT Transit Policies and Procedures Manual.

## **FINANCIAL MANAGEMENT**

The NDDOT follows the financial management procedures detailed in 49 CFR Part 18 (the Common Rule) which allows the NDDOT to expend and account for grant funds for itself and its subrecipients in accordance with state laws and established procedures. In addition, the NDDOT follows the federal statutes, regulations and requirements for all FTA grants, and the administration of its North Dakota State Aid for Public Transportation funds.

The majority of the financial management activity is the responsibility of the NDDOT Finance Division, which is under the direction of the NDDOT Deputy Director for Business Support. The Finance Division is responsible for receipt of FTA funds, for processing claims for payment (to reimburse transit projects for expenses), for initiating grant draw downs, and for disbursing funds to subrecipients.

Subrecipients receiving more than \$500,000 from ALL federal sources must file an A-133. All other agencies will be asked to provide less formal financial information, such as financial reports as submitted to their governing board, internal audit, or tax statement on a yearly basis.

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

## **PROGRAM YEAR**

The program year for Section 5311 and State Aid funding is the North Dakota state fiscal year (July 1 to June 30). The grant funds are available to the local project recipients from July 1st of the current year until June 30th of the following year. Sections 5309 and 5310 are allocated for capital projects; therefore, termination dates for program agreements for these funds depend on the dates the grant applications are approved and the nature of the projects included in the grants.

Grants for Sections 5316 and 5317 may include capital funds as well as operating funds. Sections 5316 and 5317 grants that include only operating funds are available for the state fiscal year. Sections 5316 and 5317 grants that include capital funds may have a later termination date depending on the nature of the capital purchase.

## **UNEXPENDED GRANT FUNDS**

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

Unexpended grant funds from Sections 5309, 5310, 5316 and/or 5317 programs that occur when a transit agency fails to implement a project or make a requested purchase, require a written request for additional time before the contract expiration date and it must state the reason for requesting the action. If the contract period ends, without written request, the funds are forfeited. If the request is for additional time, the NDDOT may accept or deny the request depending on the reason provided. Once a transit agency has relinquished funds, the NDDOT is free to reallocate the funds for another purpose.

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

## **DISSEMINATION OF PROGRAM INFORMATION**

Information on the FTA and State Aid transit programs is disseminated by the NDDOT throughout North Dakota in several ways including the State Transportation Improvement Plan (STIP), the website, and coordination with the North Dakota Department of Human Services, Aging Services Division. The Department of Transportation will include transit funding programs among the topics discussed at various meetings and provide data to meet identified information needs regarding these programs. Technical assistance is provided to sub-recipients through informal conversations, e-mail, formal correspondence, on-site performance reviews, conferences, trainings, sample policies, etc. Additional technical assistance is available upon request.

In MPO/COG areas, the LRTP and TIPs are used for the public to be aware of transit planning and programming within the MPO/COG study areas.

## **PUBLIC INPUT**

Public input is sought by the NDDOT in the appropriate phases of the Department's administration of the federal and state transit programs. Opportunity for public input is provided each year during the state's STIP process. Additional comments can be provided when advertising program awards. The Department has had a formal needs assessment conducted throughout the state, looks for opportunities for on-going public comment, and regularly solicits input. Through this multi-pronged approach, public input is considered when determining statewide transit needs.

## **CIVIL RIGHTS REQUIREMENTS**

Title VI of the Civil Rights Act of 1964 requires that the direct grant recipients and subrecipients provide all services and benefits without regard to race, color or national origin. The North Dakota Department of Transportation has a current Title VI Nondiscrimination and a Title VII Affirmative

Action Plan on file with the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA). These documents outline and describe efforts taken and adhered to by the NDDOT to be in compliance with the requirements of the federal nondiscrimination legislation. The Title VI Nondiscrimination Plan is updated approximately every three years, and the Title VII Affirmative Action Plan is updated annually. A copy of the NDDOT Title VI Policy for Public Transit is maintained by the Civil Rights Division of the North Dakota Department of Transportation.

## **NONDISCRIMINATION AND AFFIRMATIVE ACTION PLANS**

The North Dakota Department of Transportation is committed to ensuring no person shall on the grounds of race, color, creed, national origin, sex, age, or disability be excluded from participating in, be denied the benefits of, or be subject to discrimination under any project, program or activity under its administration. Title VI of the Civil Rights Act of 1964, subsequent federal legislation, and pertinent FTA Circulars require that direct grant recipients and subrecipients provide all services and benefits in a nondiscriminatory manner. Included in these guidelines are provisions and requirements pertaining to Equal Employment Opportunity (EEO), Disadvantaged Business Enterprises (DBE), and the Americans with Disabilities Act (ADA). The NDDOT adheres to all aspects of these requirements in the administration and management of all FTA funded transit programs in North Dakota. All Third Party Agreements for the conveyance of FTA transit funds to subrecipients contain these assurances. The NDDOT maintains plans to ensure nondiscrimination and affirmative action in all Department of Transportation programs.

## **DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

The North Dakota Department of Transportation is committed to providing opportunities to certified Disadvantaged Business Enterprises (DBEs). NDDOT does not discriminate on the basis of race, color, national origin or sex. It is the policy of NDDOT and the United States Department of Transportation that DBEs be given the opportunity to participate in the performance of contracts financed, in whole or in part, with federal funds.

The requirements for Disadvantaged Business Enterprise reporting are identified in 49 CFR Part 26. Each FTA recipient and subcontractor is required to conform to the intent of these requirements and to report efforts to obtain DBE participation as well as actual DBE contracting accomplishments. The use of DBEs is in addition to all other equal opportunity requirements of the contract.

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

Reimbursement to DBE must be prompt. Payment within 30 days is required.

These groups are currently recognized as DBEs:

- (a) Black Americans (with origins in any of the Black racial groups of Africa);
- (b) Hispanic Americans (including Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture origin);
- (c) Native Americans (including American Indians, Eskimos, Aleuts, or Native Hawaiians);
- (d) Asian-Pacific Americans (with origins from Japan, China, Taiwan, Korea, Myanmar, Vietnam, Laos, Kampuchea, Thailand, Malaysia, Indonesia, Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong);
- (e) Subcontinent Asian Americans (with origins from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka);
- (f) women; and
- (g) any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA).

The Section 5311 quarterly reimbursement form includes a line item for transit agencies to list DBE expenditures made during the quarter for which reimbursement is requested. The information listed on this line item is collected by the NDDOT to use in its annual DBE goal setting process.

## **ACCESSIBILITY REQUIREMENTS FOR RURAL AREA NON-FIXED ROUTE TRANSIT SYSTEMS**

For rural transit projects in North Dakota, the ADA accessibility requirements are disseminated to the project managers through mailings and attendance at RTAP funded workshops, seminars and conferences. In addition, the Department provides guidance and information on ADA in the course of administering the Section 5310 and 5311 programs to the rural projects.

Because the rural transit projects do not have the financial resources for major capital purchases on their own, nearly all new transit vehicles and equipment placed in the rural areas of North Dakota are funded with FTA Section 5309 and 5310 grant programs through the ND Department of Transportation. The transit projects as well as the Department is responsible to make sure that adequate numbers of accessible vehicles are available in all areas of the state.

## **DRUG AND ALCOHOL PROGRAM COMPLIANCE**

All recipients, subrecipients and sub-subrecipients of federal financial assistance under Sections 5307, 5309, 5310, 5311, 5316, and 5317 must adhere to 49 U.S.C. 49 CFR Part 655 and 49 CFR

Part 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs) of the Federal Transit Act, as amended. These regulations mandate drug and alcohol testing for direct employees or contractors who perform safety sensitive functions. Covered employees include revenue vehicle operators, dispatchers, Commercial Driver's License (CDL) holders of non-revenue vehicles, armed security personnel, and those maintaining revenue service vehicles and equipment.

NDDOT requires that all third-party contractors must formally adopt a substance abuse policy. A signed and dated copy of the adoption must be a part of the transit system's file, noting drug and alcohol program compliance. These regulations do not apply to maintenance contractors for federal grant recipients or their subrecipients. These regulations do apply to all volunteers who are required to hold a CDL in order to operate transit project vehicles and to volunteers who perform any safety-sensitive function. Failure of a recipient of federal transit funds to develop and implement a program in compliance with this regulation may result in suspension of federal transit funding.

## **DRUG AND ALCOHOL PROGRAM COMPLIANCE**

In North Dakota, transit agencies that receive FTA Section 5311 funds administered by the NDDOT are required to comply with the substance abuse regulations. The compliance program includes:

1. Formally adopting a drug and alcohol policy including a drug-free workplace policy;
2. Distributing the drug and alcohol policy to all employees.
3. Identifying and testing of safety-sensitive employees for the use of controlled substances and the misuse of alcohol;
4. Participating in a substance testing consortium/pool;
5. Obtaining supervisory personnel training on the physical, behavioral, and performance indicators of probable drug and alcohol misuse;
6. Providing a training program for all covered (safety-sensitive) employees regarding problems associated with prohibited drug use and alcohol misuse;
7. Maintaining required records in a safe and confidential manner in accordance with FTA's requirements for storing, securing, and controlling access to test records; and
8. Annually reporting test results performed during the previous calendar year submitted to the NDDOT for FTA.

The NDDOT monitors its grant recipients for compliance with the FTA requirements and coordinates the annual Drug and Alcohol Compliance Program Management Information System (MIS) reporting procedures for North Dakota's rural transit agencies. A checklist for ensuring program compliance is included in the Appendix of the Policy and Procedure Manual.

## **DRUG-FREE WORKPLACE**

The State of North Dakota has a written Drug-Free Workplace policy which specifies that:

1. The workplace is drug-free;
2. The manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace;
3. The policy includes specific actions that will be taken against employees for violating the prohibitions.

Employees are all notified of the drug-free workplace policy and are made aware of the consequences for violations of the policy. A program is in place for educating employees regarding the dangers of drug abuse and the availability of assistance programs.

## **THIRD PARTY AGREEMENTS AND CERTIFICATIONS**

Once a federal or state transit grant has been approved, the following items in this section apply to the administration and management of the grant funds:

### **THIRD PARTY AGREEMENTS**

Following approval of a grant and related Program of Projects, a contractual agreement (third party agreement) is entered into between the North Dakota Department of Transportation and each grant recipient/local project. The agreement sets forth the amount of grant funds for the project, the transit activity to be conducted, the time/duration of the funded activity, the records to be kept by the local project, and various other terms and conditions of the grant. Sample copies of the Department's current third party agreements for are contained in the NDDOT Transit Policies and Procedures Manual.

## **AGREEMENT FOR STATE AID FOR PUBLIC TRANSIT FUNDS**

A separate contractual agreement is entered into between the North Dakota Department of Transportation and each grant recipient/local project receiving State Aid for Public Transit. A sample copy of the NDDOT's agreement for State Aid for Public Transit is included in the NDDOT Transit Policies and Procedures Manual.

## **CERTIFICATIONS**

Each year when the annual federal transit apportionments are made available to North Dakota, the Department of Transportation certifies to FTA that it will abide by and follow the list of Certifications and Assurances published annually by FTA in the Federal Register. In addition, the Department includes the applicable Certifications and Assurance clauses in its third party agreements, and places these requirements on the local grant projects as well. The third party agreements also contain the applicable federally required contract clauses contained in CFR 4220.1F

## **PROCUREMENT, REIMBURSEMENT, TITLE, USEFUL LIFE, AND DISPOSAL**

### **PROCUREMENT**

The NDDOT will ensure that all procurement activities adhere to the FTA *Best Practices Procurement Manual*, and that every contract executed by NDDOT that expends federal funds will include all clauses required by federal statutes.

All capital purchases made using federal grant funding will use a competitive procurement purchase process. To assist local grant projects in vehicle procurement, the Department has established procedures entitled, *Guidance for Competitive Purchase of Buses and Vans* that are provided in the NDDOT Transit Policies and Procedures Manual.

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

### **Discretionary Capital Purchases**

Transit agency administrators have permission to make discretionary capital purchases. However, to ensure reimbursement at the 80 percent capital purchase level, the transit project must comply

with procurement regulations set forth in the NDDOT Transit Policy and Procedure Manual. As an alternative, transit agencies may order available capital items from the “state bid” contract in order to expedite the procurement process.

## **Sole Source**

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

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

## **PROCUREMENT PROTEST PROCEDURES**

The NDDOT encourages local transportation projects to have in place their own transit procurement protest procedures for resolving procurement disputes at the local level. The NDDOT Dispute Policy including definitions of terms, rights and remedies, and submission of protest procedures is included in the NDDOT Transit Policies and Procedures Manual.

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

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

## **COST REIMBURSEMENT**

All federal and state transit funds allocated to subrecipients by NDDOT through Third Party Agreements are paid to local transit agencies on a reimbursement basis. Reimbursements for operating costs are generally made on a quarterly basis; capital expenditures are reimbursed upon request from the transit agency after receipt of the capital equipment.

Quarterly reimbursement payments are made by the Department after a reimbursement form submitted by the transit agency is received by the NDDOT. For the Sections 5309 and 5310 capital grant programs, reimbursement by the NDDOT is made to the transit agency on the basis of an invoice from the vendor/supplier of capital equipment and/or vehicles, showing cost and delivery of the equipment and attached written acceptance of the equipment or vehicle by the transit operator. Copies of the current reimbursement forms are included in the NDDOT Transit Policies and Procedures Manual.

## **VEHICLE TITLE AND SALVAGE OWNERSHIP**

The North Dakota Department of Transportation is prohibited by state law from operating or holding title to any transit vehicles. Therefore, local grant recipients will hold the title to vehicles operated by the transit agency in their names. The Department reserves the right to protect the NDDOT, state and federal interest in the vehicle for the duration of the vehicle's useful life. The NDDOT arranges for regular inspection of vehicles to ensure proper maintenance.

In the case of regional transit agencies/organizations that receive grants or act as sponsors for local transportation agencies, the regional organization has the following options for vehicle titling:

1. Title the vehicle in the name of the regional agency;
2. Co-title the vehicle in the name of both the regional agency and that of the local transportation agency; or
3. Allow the vehicle title to be placed in the name of the local transportation agency with the regional agency having the option of placing a lien on it.

When a regional transit agency sponsors a local transit service provider, an agreement must be executed between the two parties to provide for the operation of the vehicle over its useful life. After the useful life of a vehicle is spent, the vehicle title and salvage value may go to the party having the 20% grant match interest in the vehicle. The title holder generally is the party who initially provided the 20% local match for the vehicle.

In the case of a project sponsor for a private transit operator, the vehicle must be titled in the name of the project sponsor. A lease agreement must be executed between the two parties to provide for the operation of the vehicle over the vehicle's useful life. The lease cost is usually the required 20% capital match, but can also be any other arrangement agreed upon by both parties. At the end of the useful life, the vehicle title and salvage value may go to the private transit operator at the option of the project sponsor. By allowing the private operator to obtain eventual title and salvage value of the vehicle, an incentive is provided for the private operator to conduct good maintenance and upkeep on the vehicle.

## **Satisfactory Continuing Control**

Federal interest in real property exists until the property is disposed of (at which time FTA receives its share of the disposition if the property has not reached its useful life or if the property value exceeds \$5,000). The NDDOT ensures effective inventory controls through the establishment of vehicle useful life standards, its vehicle and facility inspection process, and a transit vehicle inventory. These established controls also assist the NDDOT to recognize any excess property and determine the number of vehicles and/or facilities needed.

## **USEFUL LIFE OF TRANSIT VEHICLES AND EQUIPMENT**

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

### **Duration of Useful Life**

1. For vans (up to 15 passenger and sold as vans), the useful life is 100,000 miles. (see #4 for lemon law exceptions)
2. For buses (up to 26 passenger and under 30 feet long), the useful life is eight (8) years or 200,000 miles, whichever occurs first. Buses will not be replaced with less than 150,000 miles. (see #4 for lemon law exceptions)
3. For vehicles and equipment not covered by the above, the useful life will be established by the Department of Transportation on a case-by-case basis at the time of purchase.
4. Provision for Lemon Vehicles: There is a special provision to allow replacement of a bus or van before it's useful life is spent, if it can be documented that the vehicle to be replaced is a lemon (i.e., has required extraordinary maintenance and repairs and has given service problems since being placed into service). In this case, the vehicle is to be traded-in for a replacement vehicle with the trade-in value deducted from the new bus grant.

After the useful life of a vehicle or related transit equipment is spent (as defined above), the Department will relinquish all interest and will no longer inspect such property nor require

property insurance (collision/damage) to protect the government's interest in the property. Liability insurance and other coverage as required by state law must still be maintained. The Department of Transportation reserves the right to deviate from or make exceptions to the above inspection and useful life policy as may be necessary or appropriate in special cases or circumstances.

## **DISPOSITION OR CHANGE OF USE OF PROPERTY**

### **Change of use of vehicles, equipment or property**

NDDOT must be notified immediately of any vehicle, equipment or property whose purpose has changed from its original intended purpose.

For Example,

1. If a vehicle was purchased for use in an Elderly and Disabled program, but is now being used for Job Access, NDDOT must be notified.
2. If a building was purchased for bus storage and is now being used for office space, NDDOT must be notified.

## **DISPOSAL OF VEHICLES AND EQUIPMENT**

The following procedures shall apply for disposal of grant funded transit vehicles and equipment under two different conditions, before and after the useful life is spent:

### **Options for Disposing of Vehicles (Vans, and Buses) and Related Equipment before the Useful Life is Spent**

Disposal of a used vehicle and/or related equipment before its useful life is spent must be done for a justifiable reason and requires prior approval from the NDDOT. The following priority options shall be followed in making disposal under this condition:

1. Relocation (transfer of vehicle)

The preferred option is the used vehicle or equipment be relocated to another similar, eligible organization for a maximum charge of 20 percent of the current market value. The 20 percent proceeds can be retained by the donor project as a partial return on its initial 20 percent grant match. The new recipient organization shall pay the 20 percent and use the relocated vehicle or equipment for the same purpose as specified in the original grant program. The NDDOT will assist in finding recipient organizations for relocating used vehicles and equipment, as appropriate.

2. Trade-In

The used vehicle that has met the useful life criteria can be traded-in on the purchase of a new vehicle or related equipment. Such a trade-in can be made with or without a new grant. If a new grant is involved, the trade-in value will reduce the new grant amount. In this case, the state and federal interest in the old vehicle or equipment will transfer to the new vehicle or equipment.

3. Sale of Vehicles and Equipment

Disposal of vehicles or equipment by sale must be done for a justifiable reason. Such sales must be made at market value and shall be made by taking bids in a formal or informal manner (including public auction) to obtain the highest possible proceeds.

The sales proceeds must be fully applied toward the cost of replacement vehicle(s) or equipment. If replacements are not contemplated, then 80 percent of the proceeds must be subtracted (similar to fares) on the next operating request for reimbursement.

If the vehicle is past its useful life and the sales proceeds are less than \$5000, the project may retain the funds. The proceeds from the sale must be expended for transportation purposes and documented for auditing.

4. Insurance proceeds collected from vehicle damage will reduce the reimbursement allowable for repairs or a new vehicle.

For example, if a vehicle was totaled, insurance proceeds were \$22,000, and new vehicle cost is \$32,000, the reimbursement allowable for a new vehicle would be \$8000.

$$(32,000-22,000)*80\% = 8000$$

If a vehicle was damaged, and insurance proceeds were \$4000, and the repair cost is \$5,000, the reimbursement allowable would be \$800.

$$(5000-4000)*80\% = 800$$

If a insurance proceeds were collected, and the repairs or replacement was not made, the amount must be subtracted (similar to fares) on the next request for operating reimbursement.

## **DISPOSAL OF REAL PROPERTY**

Disposal of real property to be according to recommendation from FTA. Close contact with NDDOT and FTA staff is required for disposal of real property.

## **MAINTENANCE AND INSPECTION**

### **MAINTENANCE**

FTA requires an effective, written maintenance plan and documentation of activities for facilities and equipment funded with federal dollars. The NDDOT requires that its subrecipients maintain their FTA and state funded facilities and vehicles in good condition. Through its on-site inspections, the NDDOT is able to monitor the on-going maintenance of vehicles facilities and equipment purchased with FTA and state funds. Written maintenance plans and documentation must include maintenance of ADA features.

#### **Building Maintenance Requirements**

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

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

In addition, facilities constructed, renovated or remodeled using Section 5309 or other federal grant funds are required to record and enforce warranty claims for all components and equipment that are covered. This may include, but is not limited to, siding HVAC components, flooring, windows, countertops, plumbing fixtures, bus storage bay doors, etc.

#### **Vehicle Maintenance Requirements**

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

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

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

## **SITE VISITS OF VEHICLES AND EQUIPMENT**

All capital equipment purchased with FTA funds (primarily buses and vans) is inspected by the NDDOT at least once every two years. This continues over the useful life of the vehicles and equipment to ensure it is well-maintained and continues to be used for the purpose intended. A copy of the vehicle inspection form is included in the NDDOT Transit Policies and Procedures Manual.

## **TECHNICAL AND MANAGEMENT ASSISTANCE FOR TRANSIT PROJECTS**

The majority of the state's eligible recipients of transit assistance are small transit operations (one to four buses) with limited technical resources and capabilities to undertake extensive transit operation and managerial improvements. As a result, many of these systems function at a level of service below their potential. To improve this situation, Section 5311 administration funds, transit planning funds, and RTAP funds are used to provide local systems with technical and managerial assistance.

The form and extent of this assistance varies depending upon the particular local situation and the availability of Department funds and staff. The following is a description of the types of assistance the Department of Transportation provides to local transit projects.

## **PLANNING ASSISTANCE**

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

## **VEHICLE AND EQUIPMENT PROCUREMENT ASSISTANCE**

The NDDOT provides specifications for subrecipient's use in purchasing vehicles and equipment funded with FTA or State Aid grant funds. The NDDOT provides technical assistance, reviews and approves the final bid specifications, and oversees the procurement process in order to ensure compliance with state and federal procurement regulations.

## **TRAINING ASSISTANCE**

Training assistance is primarily provided through the Rural Transit Assistance Program (RTAP). The Department provides RTAP funds to train rural transit administrators, their staff members and drivers. Local transit personnel are given the opportunity to attend in-state and out-of-state seminars, workshops, and training classes dealing with topics such as public transit management and operations. Training is provided on program requirements such as Title VI, EEO, DBE, ADA, and Drug and Alcohol Testing. Various driver training and passenger safety courses are also provided.

To encourage attendance at available training by rural transit agencies, scholarships and other reimbursements may be made available through the North Dakota Department of Transportation. Prior to attending training, the transit agency must submit a written request to the NDDOT and approval of the request must be received from the Department. Payments from the Department will be made on a reimbursement basis only. Reimbursements are paid at state approved rates.

## **TECHNICAL ASSISTANCE**

The Department provides various information and technical assistance to local transit projects on a daily basis for the operation of their systems. In addition, RTAP funds may be used to provide other technical assistance in the following forms:

1. A quarterly transit newsletter is produced by the Dakota Transit Association, it is distributed to all transit agencies throughout the state.
2. In conjunction with the Dakota Transit Association Fall Conference, an annual bus driver "Roadeo" is held to improve bus driving skills.
3. RTAP funds may be used to provide operational support to the Dakota Transit Association that promotes transit development and training in both North and South Dakota.
4. Transit-related information is mailed and/or emailed to local transit agencies informing them of program changes and of new items in the transit field.

5. The NDDOT holds face-to-face meetings with local transit agencies at their quarterly association meetings and in conjunction with the Dakota Transit Association mid-year and fall conferences.

## **PROJECT REVISIONS AND AMENDMENTS**

During the course of a grant year, after the various annual federal transit grants and the Program of Projects have been approved by FTA and are being implemented, local grant recipients may request to make changes in their original grant projects. Such changes may or may not require a change in the statewide Program of Projects. The following are the procedural steps used by the Department of Transportation when local grant recipients request changes in their grant projects:

1. Local grant recipients must submit a written request to the Department stating the nature of the proposed change in their approved grant. This request must address the following pertinent points:
  - a. The requested change must be clearly stated and include reasons or justification for the proposed change.
  - b. The local transit agency must describe the effect the change will have on its present transportation service or operation.
  - c. Any change in the local grant budget must be shown.
2. The Department will review the proposed grant change to determine whether it is keeping with the original intent of the grant award and within the state's goals for public transportation. Any identified conflicts will be reviewed and addressed by the Department.

Changes to an approved Program of Projects of a statewide grant may also be initiated at the state level by the Department of Transportation. In this case, the proposed change(s) will undergo a similar review as described earlier in this document.

All proposed projects and funding changes are reviewed as to the type and magnitude of the change to determine the extent of change necessary to the Program of Projects, and also the extent of FTA's required involvement in the approval of the change. Changes to the approved Program of Projects are categorized as either Project Revisions or Project Amendments. These categories set forth the criteria as to whether only state level approval is needed for the change or also federal/FTA approval.

If changes affect the STIP, modification or amendment must be made to the STIP according to policies and procedure. For changes in MPO/COG areas, the TIP may also need to be changed. Contact the MPO/COG in your area for policy and procedure guidelines.

## DEFINITIONS OF CATEGORIES OF APPROVAL FOR SECTION 5311

**This section pertains to Section 5311 only. Projects can be approved in the following categories.**

Category A. Projects in Category A include those projects that the State has certified as having met all the federal statutory and administrative requirements for approval applicable to both the project activities and subrecipient will carry out those activities. FTA's approval of Category A projects is unconditional upon grant award. When FTA executes the grant, the State may start drawing down funds to implement projects in Category A. FTA expects most, if not all, of the projects included the State's Program of Projects to be in this category.

Category B. Projects in Category B include those projects the State anticipates approving during the current year, but that have not yet met all federal statutory and/or administrative requirements. For example, a project in Category B may be a project that lacks certification by the State to the Department of Labor (DOL) that the subrecipient has signed the special labor protection warranty. Similarly, a major capital project other than vehicle purchase in Category B may be a project that lacks completion of the environmental review process. Projects may also be in Category B when a subrecipient has not yet met all applicable federal requirements.

Category C. The State may include funds in Category C to assist projects it has not yet identified at the time it submits its grant application. FTA established the category to allow a State to obligate its entire annual Section 5311 apportionment at one time, even if it has not at the time of its grant application to FTA designated all the projects for which it plans to use its Section 5311 apportionment. For example, if the State cannot immediately identify specific projects that would use the entire 15 percent of the apportionment required to be expended for intercity bus transportation, the State may list the remain intercity bus funds in Category C.

The optional Category C is a program reserve. FTA designed Category C program reserve funds to accommodate unanticipated program needs. States should not confuse Category C program reserve funds with reasonable contingencies for the projects the State designated in its Program of Projects and included in Category A or B.

States may not include more than 10 percent of the total amount it obligates in the grant in the Category C program reserve. Additionally, FTA strongly encourages the State not to include more funds in Category C than it reasonably expects to allocate to new projects capable of meeting the applicable federal requirements or to budget adjustments in existing projects within 12 months. If the State does not expect to select projects for which it will use all its Category C funds, the State should defer obligating those remaining funds until the following year.

The State must allocate Category C program reserve funds to specific projects within the period of availability of the funds. FTA will de-obligate any Category C funds not allocated within the period of availability. FTA assumes the funds remaining in Category C are the newest funds, if a

grant contains funds apportioned in more than one fiscal year. Funds de-obligated after the period of availability lapses, will be redistributed by FTA.

When a State selects projects it will advance out of the Category C program reserve funds, it must notify FTA of the changes to the Program of Projects. Any new project that does not qualify as a CE under 23 CFR 771.117(b) requires environmental clearance from FTA before the State advances the project to Category A.

## **PROJECT REVISIONS NOT REQUIRING PRIOR NOTIFICATION OR FTA APPROVAL**

Revisions are project changes which do not cause a change in scope of the approved Program of Projects in its entirety. The Department of Transportation may approve project revisions without prior notification or approval by FTA. Examples of these types of revisions are:

1. Deletion of projects from the Program of Projects, if the project cost is less than \$250,000 or 10% of the total of the Program of Projects, whichever is greater.
2. Advancing projects from Category B to Category A, provided the prospective subrecipient is in compliance with all applicable federal requirements, and the Department has no information suggesting otherwise.
3. Allocation of Category C funds to existing projects, if the funds are within their period of availability.
4. Reallocation of funds within an approved Program of Projects among approved projects within a local area or from one local area to another. This includes adjustments of local project funding levels to accommodate changes in vehicle or equipment requirements, including number and type of vehicles and changes in operating costs.
5. Moving transit equipment or property among subrecipients listed in the Program of Projects, regardless of whether the items were originally funded from a different grant.
6. Shifting funds designated for intercity busing among intercity bus projects. These funds can also be reallocated to other projects if more than the required percentage has been allocated for intercity transit operations, and the transfer of funds to another project would not reduce the intercity funding below the required percentage.
7. Transferring funds programmed for RTAP projects within the Program of Projects for use in other RTAP projects.

## **PROJECT REVISIONS REQUIRING NOTIFICATION TO FTA, BUT NOT FTA APPROVAL**

The Department may make the following revisions after notifying FTA:

1. Allocate Category C funds to new operating assistance projects or capital projects under \$250,000, within the period of availability of funds, provided the prospective subrecipient is in compliance with all applicable federal requirements, and the Department has no information suggesting otherwise.
2. Creation of new operating assistance projects or capital projects under \$250,000 with funds subtracted from other projects within the approved Program, or assign transferred equipment or property to a recipient not previously listed in the Program of Projects, provided the prospective subrecipient is in compliance with all applicable federal requirements, and the Department has no information suggesting otherwise.
3. Delete or reduce projects by more than \$250,000 or 10% of the total Program of Projects, whichever is greater.

## **PROJECT REVISIONS REQUIRING FTA APPROVAL**

The Department will make the following revisions to an approved Program of Projects only after obtaining approval from FTA:

1. Allocate or reprogramming more than \$250,000, or 10% of the total of the Program of Projects, whichever is greater, for any new capital project or for any project which is not a categorical exclusion under the National Environmental Policy Act (NEPA).
2. Changes in intercity bus projects, if the change would result in less than the required 15% of the annual apportionment being programmed for intercity busing projects, in which case the request for approval would have to be accompanied by a certification from the Governor that the intercity bus transportation needs of the state are adequately met.
3. Advance to Category A any prospective subrecipient with serious questions of compliance with federal requirements remaining unresolved.

## **PROJECT AMENDMENTS REQUIRING FTA APPROVAL**

Only the addition of federal funds or a change in the scope of the approved Program of Projects constitutes a Project Amendment and requires an Amendment to the grant agreement between the Department and the FTA

## **ANNUAL STIP PLANNING REQUIREMENT**

All transit projects funded under the Sections 5309, 5310, 5311, 5316, 5317, RTAP (5311(b)), and State Aid programs are included in the NDDOT's annual Statewide Transportation Improvement Program (STIP).

All transit projects funded with the Sections 5307 and 5309 programs in the state's three urbanized areas are included in the local metropolitan area Transportation Improvement Program (TIP), and these also become a part of the STIP.

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

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

## **UPDATE OF PROGRAM OF PROJECTS**

The most recently updated Program of Projects, submitted by the Department of Transportation to FTA in its annual program status report or in the course of making revisions, will be considered the current approved Program of Projects, incorporated by reference in the grant agreement.

## **National Transit Database?**

The National Transit Database (NTD) is the Federal Transit Administration's (FTA's) primary national database for statistics on the transit industry. Recipients of FTA's Urbanized Area Formula Program (§5307) and Other than Urbanized Area Formula Program (§5311) are required by statute to submit data to the NTD. The legislative requirement for the NTD is found in Title 49 U.S.C. 5335(a):

The Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) amended the National Transit Database provisions to establish annual reporting requirements for recipients and beneficiaries of §5311 Other than Urbanized Area formula grants while maintaining existing NTD annual reporting requirements for recipients and beneficiaries of Urbanized Area Formula funds. Additionally, Title 49 U.S.C. 5311(b) (4) was amended to provide certain specifications of the NTD reporting requirements for §5311 grant recipients:

DATA COLLECTION – Each recipient under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including –

- (A) total annual revenue;
- (B) sources of revenue;
- (C) total annual operating costs;
- (D) total annual capital costs;
- (E) fleet size and type, and related facilities;
- (F) revenue vehicle miles; and
- (G) ridership.

NTD began collecting rural transit data in 2006 using a model that was developed in consultation with States. The 2007 reporting system was updated to reflect the above data requirements. In keeping with the sentiments of the States, and the intent of Congress, the NTD offers streamlined and reduced reporting requirements for rural reporting relative to the NTD requirements for urbanized area reporting