



Transit

Policy and Procedure Manual

Providing a transportation system that safely moves people and goods.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

Prepared by:

North Dakota Department of Transportation
Local Government Division, Transit Section
608 East Boulevard Avenue
Bismarck, ND 58505-0700
(701) 328-2194
Web site: www.dot.nd.gov

Revision: November 2010

Pending FTA approval submitted May 2011

Policy and Procedure Manual

Table of Contents

Program goals and Objectives_____	4
Roles and responsibilities_____	5
Coordination _____	5
Eligible sub-recipients_____	5
Eligible services, service areas, and assistance categories_____	6
Local share and local funding requirements _____	10
Project selection criteria and method of distributing funds _____	10
Annual POP development and approval process_____	11
Funds Transfer_____	11
Program Measures _____	11
Technical Capacity of Sub Recipients for all FTA programs_____	12
RTAP provisions _____	12
Maintenance of property _____	13
Charter rule_____	13
Prohibition of exclusive school transportation_____	14
Fixed Route Guidelines_____	15
ADA_____	15
Meal Delivery Service _____	15
Safety and Security _____	15
Accounting systems, audit and closeout _____	15
Sub recipient oversight and reporting_____	16
Lobbying restrictions_____	16
Contract Revenues_____	16

Policy and Procedure Manual

Appendix

A. Site Visit & Review inspection form	17
B. Vehicle inspection form	21
C. Guidance for competitive purchase of buses and vans	22
D. Appeal process for private sector participation (pending)	23
E. Dispute process	24
F. Discretionary capital guidance	25
G. 5310 reporting template	26
H. Fixed route Compliance Questionnaire	27
I. Auxiliary aids and Services	33
J. Sample Title VI poster for vehicles	41
K. Sample Title VI Complaint Log (located on transit web site)	42
L. Sample Title VI Complaint Form and Instructions (located on transit web site)	43
M. Sample Limited English Proficiency Plan (located on transit web site)	45
N. Sample Drug and Alcohol Policy (located on transit web site)	49
O. Drug and Alcohol Policy Requirements Checklist (located on transit web site)	70
P. Consolidated application	73
Q. JARC/NF application (located on transit web site)	88
R. Application for additional funding (located on transit web site)	97
S. Section 5311 contract	99

FTA Programs

Program goals and Objectives

The NDDOT overall goals and objectives are consistent with the FTA program goals, and are included in the State Management Plan (SMP). The FTA program goals and objectives of the individual programs are as follows:

1. **5309** program is to invest in capital equipment and facilities to allow for efficient and improved public transportation services. (FTA C 9300.1B page II-2)
2. **5310** program is to improve mobility for elderly individuals and persons with disabilities. (FTA C 9070.1F page II-1),
3. **5311** program is to foster the development and revitalization of public transportation systems that: (FTA C9040.1F page II-2)
 - a. Maximize the safe, secure and efficient mobility of individuals
 - b. Minimize environmental impacts and
 - c. Minimize transportation-related fuel consumption and reliance on foreign oil.
4. **5311(b) RTAP** program objectives are: (FTA C9040.1F page IX-1)
 - a. to promote the safe and effective delivery of public transportation in nonurbanized areas and to make more efficient use of public and private resources;
 - b. to foster the development of state and local capacity to address the training and technical assistance needs of the rural transportation providers;
 - c. to improve the quality of information and technical assistance available through the development of training and technical assistance resource materials;
 - d. to facilitate peer-to-peer self help through the development of local networks of transit professionals; and
 - e. to support the coordination of public, private, specialized, and human service transportation services.
5. **5311(f) Intercity** program: (FTA C9040.1F page IX-1)
 - a. to support the connection between non urbanized areas and the larger regional or national system of intercity bus service,
 - b. to meet the intercity travel needs of residents in non urbanized areas.
 - c. to support the infrastructure of the intercity bus network through planning and marketing assistance and capital investment in facilities.
 - d. To meet ADA requirements before 2012 deadline.
6. **5316 JARC** program: (FTA C9050.1 page II-1) is
 - a. to improve access to transportation services to employment and employment related activities for welfare recipients and eligible low-income individuals and
 - b. to transport residents of urbanized areas and non urbanized areas to suburban employment opportunities.
7. **5317 New Freedom** program: (FTA C9045.1 page II-1) grant program aims to
 - a. provide additional tools to overcome existing barriers facing Americans with disabilities seeking integration into the work force and full participation in society.
 - b. reduce barriers to transportation services and expand the transportation mobility options available to people with disabilities beyond the requirements of the Americans with Disabilities Act (ADA) of 1990.

Roles and responsibilities

NDDOT has the principal authority and responsibility for administering the FTA programs in North Dakota as described in the FTA circulars. FTA serves a broad program level role in the administration of the program as described in the circular.

Sub-recipient has the responsibility for providing transit services to as diverse of a group as possible, for following FTA and NDDOT regulations, and for reporting information as required by FTA and NDDOT.

Coordination

NDDOT is working together with multiple areas to develop coordinated plans. Plans are to achieve the most cost-effective and efficient documents in delivering high quality transportation service. Each plan for coordinating transportation services will need to be developed to each community's needs, skills, and resources. NDDOT will help to provide the tools, support the plan in funding, and give guidance throughout the planning stages.

As our population ages and is increasing in size due, changes need to happen in Public and Human Service Transportation to better service the changing community needs. NDDOT is moving forward to coordinate the bringing of 53 counties together to better serve the communities in transportation.

4 (Four) Main Point of Plan

(A) An assessment of available services that identifies current transportation providers

(B) An assessment of transportation needs of individuals to be served with the funding sought, that is, persons with disabilities, older adults and people with low incomes.

(C) Strategies, activities, and/or projects to address the identified gaps between current services and needs, as well as opportunities to improve efficiencies in service delivery.

(D) Priorities for implementation based on resources (from multiple program sources), time, and feasibility for implementing specific strategies and/or activities.

Coordination between the grant programs is maintained by comparing the Program of Projects (POP) of all projects together, and not as individual programs. Best use of the funding is maintained by balancing the programs together, and using appropriate funds for each grant request.

Interagency coordination is accomplished with monthly meetings with the Department of Health Services Aging Services. Continual communication with this agency, the sub recipients and any other comments received in this office is actively pursued.

Sub-recipients actively communicate with the Human Services agencies in their area to ensure service to those in needed.

Eligible sub-recipients

FTA Funding Section number. →	5309	5310	5311	5316 JARC	5317 New Freedom
FTA Circular number. →	FTA C9300.1B	FTA C9070.1F	FTA C9040.1F	FTA C9050.1	FTA C9045.1
Eligible sub-recipients	page III-1	page III-3	page III-5	page II-4	page III-4
State and local governments	X		X	X	X
Public agencies	X				

Private companies engaged in public transportation	X			X	X
Non-profit organizations	X	X	X	X	X
Governmental authorities in areas with no non-profit organizations	X	X		X	X
Governmental authorities approved by the state to coordinate services for elderly individuals with disabilities.	X	X		X	X
Indian tribe			X		
Operator of public transportation or intercity bus service	X		X	X	X

5309 (FTA C-9300.1B page III-1),

1. State and local governments
2. Public agencies
3. Private companies engaged in public transportation
4. Non-profit organizations

5310 (FTA C 9070.1F page III-3),

1. Private Non-profit organizations;
2. Governmental authorities in areas with no non-profit organizations. Public agencies must provide a certification that there are no non-profit organizations in the service area that are in need of funds.
3. Governmental authorities approved by the state to coordinate services for elderly individuals with disabilities.

5311 (FTA C9040.1F page III-5)

1. State or local government authority
2. Indian tribe
3. Non-profit organizations
4. Operator of public transportation or intercity bus service
5. Private for-profit operators

5316 JARC and 5317 (NF) (FTA C9050.1 page II-4 & C9045.1 page III-4)

- a. Private Non-profit organizations;
- b. State or local government authority
- c. Operator of public transportation service including private operators of public transportation services

Eligible services, service areas, and assistance categories

In order to be reimbursable, service must be open to the public. Service must be advertised as open to the public in all advertising, brochures, websites and posters. Posters should be in all vehicles showing the service as open to the public.

FTA Funding Section number. →	5309	5310	5311	5316 JARC		5317 New Freedom	
FTA Circular number. →	FTA C9300.1B	FTA C9070.1F	FTA C9040.1F	FTA C9050.1		FTA C9045.1	
Eligible service areas and assistance categories				urban	rural	urban	rural
	x	*		x		x	

Urban Operating				X		X	
Urban Administration				X		X	
Rural Capital	X	X	X		X		X
Rural Operating			X		X		X
Rural Administration			X		X		X

“One dollar “contaminates” all” rule: When federal funds is used to maintain or improve a property, FTA automatically retains 80% of the value. If you use FTA funds to maintain a city building, FTA gains 80% ownership. If you use FTA funds to add a ramp to a city building, FTA gains 80% ownership.

Section **5309** program funds may be used for capital projects in both rural and urban areas of the state. (FTA C-9300.1B page III-1&2) Examples of capital expenses include but are not limited to:

- a. acquisition of vehicles for fleet and service expansion;
- b. rehabilitation of buses (requires bus to be kept in service for 24 additional months beyond renovation date)
- c. construction and renovation of bus maintenance and administrative facilities,
- d. transfer facilities, transportation centers, intermodal terminals and park-and-ride stations;
- e. purchase of replacement vehicles, vehicle rebuilds and vehicle preventive maintenance;
- f. purchase of passenger amenities such as passenger shelters and bus stop signs;
- g. purchase of accessories and miscellaneous equipment such as mobile radio units, supervisory vehicles, fare boxes, computers and shop and garage equipment

Section **5310** program funds may be used for **capital** expenses in **rural** areas to support transportation services to meet the special needs of elderly persons and persons with disabilities. These funds are generally used to purchase vehicles.

* Due to the limited amount of funds, and the additional reporting requirements, NDDOT policy is to use 5310 funds for rural areas.

Special needs transportation in either rural or urban areas can apply for 5309, 5316 or 5317 funding. Urban capital for government agencies is funded with 5309, 5316, and 5317 funds. (FTA C 9070.1F page III-4), Examples of capital expenses include, but are not limited to:

- a. buses and vans;
- b. radios and communication equipment;
- c. vehicle shelters;
- d. wheelchair lifts and restraints;
- e. vehicle rehabilitation or overhaul;
- f. extended warranties which do not exceed the industry standard;
- g. computer hardware and software;
- h. initial component installation costs;
- i. vehicle procurement, testing, inspection, and acceptance costs;
- j. the introduction of new technology into public transportation as described in the circular;
- k. transit related intelligent transportation systems (ITSs); and
- l. supporting new mobility management and coordination as described in the circular.

Section **5311** program funds may be used for **rural** public transportation and intercity bus programs. (FTA C9040.1F page III-8-12) The following are eligible expenses:

State Administration is available to the state for use in transit administration such as consultant services. 15% of the grant amount may be used for state administration. The state may pass the administration funds down to sub-recipients

Capital expenses are the same as those listed under the Section 5310 program above, with the addition of additional capital items such as:

- a. Para transit vehicles
- b. Tires, when purchased as a full set for the vehicle in question
- c. Vehicle rehabilitation, remanufacture or overhaul
- d. The above list is by no means comprehensive; additional small capital items are also eligible. Guidance for purchase of capital items is included in the appendix of this document.

Operating Expenses are considered those costs directly related to system operations. At a minimum, the following items must be considered operating expenses:

- a. fuel
- b. oil
- c. drivers' salaries and fringe benefits
- d. dispatcher salaries and fringe benefits
- e. licenses
- f. maintenance

Net operating expenses are those expenses that remain after operating revenues are subtracted from eligible operating expenses. For funding purposes, the same cost may not be counted twice.

At a minimum, operating revenues must include fare box revenues. Fare box revenues do not include payments made directly to the transit provider by human service agencies.

A cost allocation plan must be submitted before indirect costs can be reimbursed. This plan can be one prepared for a different federal agency or one prepared for the FTA program. (OMB Circular A-87, FTA C 6100.1C Page IV-5, DHHS brochure ASMB C-10, and A-87 are references you may use in preparing the cost allocation plan.)

Administrative Expenses. Eligible project administrative expenses may include, but are not limited to, general administrative expenses such as:

- a. Salaries and fringe benefits of the project director, secretary, and bookkeeper
- b. marketing expenses
- c. insurance premiums or payments to a self-insurance reserve
- d. office supplies
- e. facilities and equipment rental
- e. standard overhead rates
- f. costs of administering drug and alcohol testing

Administrative expenses should not exceed 15% of the operating budget.

Intercity bus Expenses must be at least 15% of the 5311 funding. Funding may be used for Either capital or operating expenses.

RTAP funding is awarded in the Federal Register. RTAP funds may be used to support Non-urbanized transit activities the following categories: (FTA C9040.1F page IX-2)

- a. training,
- b. technical assistance,
- c. research,
- d. related support services, and
- e. purchase of equipment to support any of the above activities.

Section **5316** program funds may be used for both **rural** and **urban** programs. (FTA C9050.1 page III-8) The following are eligible expenses:

- a. Operating costs as listed above
- b. Capital costs as listed above
- c. Administration can be awarded up to 10% of the total project cost. Eligible costs are general administrative and overhead costs, staff salaries, office supplies and development of specs for vehicles and equipment.

Eligible activities (per FTA C9050.1 page III-8) may include but are not limited to capital, planning and operating assistance to support activities such as:

- a. Late-night and weekend service
- b. Demand-responsive van service
- c. Promotion and marketing
- d. Facilitating the provision of public transportation services to suburban employment opportunities.

Additional eligible activities are listed in the circular.

Section **5317** program funds may be used for both **rural** and **urban** public programs. (FTA C9045.1 page III-8) New freedom funds are designated to any service or activity that was not operational on August 10, 2005 and did not have an identified funding source as of that date. They must go beyond the requirements of the ADA and must (1) be targeted toward individuals with disabilities; and (2) meet the intent of the program by removing barriers to transportation. The following are eligible expenses:

- a. operating costs as listed above
- b. Capital costs as listed above
- c. Administration can be awarded up to 10% of the total project cost. Eligible costs are general administrative and overhead costs, staff salaries, office supplies and development of specs for vehicles and equipment.

Eligible expenses may include but are not limited to capital, planning and operating assistance to support activities such as:

- a. New public services beyond the ADA
- b. New public transportation alternatives beyond the ADA, such as purchasing vehicles to support new accessible taxi programs.
- c. Support new mobility management program

Additional eligible expenses are listed in the circular.

Local share and local funding requirements

The local share funding requirement is the same for all grants. The federal grant share pays 50 percent of total qualified operating costs; the local share pays the remaining 50 percent.

The federal grant share pays 80 percent of total qualified administration, and capital costs; the local share pays the remaining 20 percent.

The federal grant share pays 100 percent of qualified RTAP and State Administration.

Note: The following sources may NOT be included in local match funds:

- a. federal USDOT funding, , and
- b. fare box revenue.

Project selection criteria and method of distributing funds for all FTA programs

A consolidated application form was created to simplify the grant application for areas other than MPO's. A copy of this application is included as an Appendix of this document.

FTA program funds for vehicles are allocated based on need, with the following considerations

- Vehicle age, mileage and condition
- Vehicle Replacement versus expansion
- service to new areas,
- service on additional days
- service with increased hours

FTA program funds for other program costs are allocated based on demonstrated need, past performance, history of reliable service, National Transit Database report, Cost per mile, technical capacity, and willingness to participate in training, technology and coordination.

NDDOT does not allocate Section 5310 or 5311 funding for construction, renovation or similar projects due to the need for capital purchase of buses, vans and associated equipment. It is the intent of NDDOT to fund operating, administration, Intercity, RTAP and discretionary capital in the 5311 program. It is the intent of NDDOT to fund vehicle purchases with the 5309 and 5310 grants.

NDDOT formed a selection and approval committee made up of 3 transit staff members and 5 non transit staff members. Two non transit DOT employees, Department of Medicaid Services and two (2) from community organizations. The seven member committee will serve a 3 year term and will be appointed by the transit staff.

The committee was formed to determine the eligibility of all grant applications and to evaluate the transit programs across the state. The committee then reviews eligible applications, with consideration given to the amount of funding available, the amount of requests received, along with the considerations listed above. From this information, grants are approved and penalties may apply with tardy or incomplete applications.

After project selection, NDDOT will send a contract to the sub recipient for execution, with the amount of funding and funding categories available. Upon execution, the project may begin expending funds.

Annual POP development and approval process

The annual Program of Projects for each program is developed from the grants awarded. The Program of Projects is then reviewed by the NDDOT transit team. Upon agreement, the POP is presented to the Local Government Engineer for approved and is uploaded into TEAM.

Funds Transfer

Although it is the intent that all funds remain in their original grants, NDDOT may transfer funds to other programs as described in the circulars.

Program Measures

Program year is October 1st-September 31. Reports are due October 15. Example, program year 2011 is from October 1, 2010 thru September 31, 2011. Program measures are due October 15, 2011

The two measures established for the Section 5310 (per FTA C 9070.1F page II-2), program are:

1. Gaps in Service Filled. Provisions of transportation options that would not otherwise be available for older adults and individuals with disabilities measured in numbers of older adults and individuals with disabilities afforded mobility they would not have without program support.
2. Ridership. Actual or estimated number of rides (as measured by one way trips) provided annually for individuals with disabilities and older adults on Section 5310 – supported vehicles and services.

There are no measures established specifically for the Section 5309 or 5311 programs at this time.

The measures established for the Section 5316 program (per FTA C9050.1 page II-2) are:

1. Actual or estimated number of jobs that can be accessed as a result of geographic or temporal coverage of JARC projects implemented in the current reporting year.
2. Actual or estimated number of rides (measured by one-way trips) provided as a result of the JARC projects implemented in the current reporting year.

The measures established for the Section 5317 program (per FTA C9045.1 page II-1&2) during each program year are:

- a. to increase or enhance geographic coverage, service quality and/or service times that improve availability of transportation services for individuals with disabilities,
- b. to add or change environmental infrastructure (such as transportation facilities, sidewalks, etc.), technology, and vehicles in order to improve availability of services, and
- c. to increase the number of rides provided for individuals with disabilities.

Technical Capacity of Sub Recipients for all FTA programs

Technical Capacity of Sub recipients will be measured by:

- Records submitted on time
- Claims submitted promptly
- Prompt response to requests
- Ability to maintain vehicles

NDDOT will track this information to ensure technical Capacity of sub recipients is adequate.

RTAP provisions (FTA C9040.1F Chapter IX)

FTA Section 5311(b) (3): Rural Transit Assistance Program (RTAP)

The Rural Transportation Assistance Program (RTAP) provides a source of funding to assist in the design and implementation of training and technical assistance projects and other support services designed to meet the specific needs of transit projects in nonurbanized areas.

The FTA allocates RTAP funds to the NDDOT by an administrative formula. State RTAP funds have the same period of availability as the Section 5311 formula funds, the fiscal year in which they are allocated plus two additional fiscal years. The federal share for RTAP is 100 percent; there is no local match requirement.

FTA permits use of RTAP funds by transit providers of specialized transportation in urbanized areas, such as Section 5310 funded agencies, and public transit operators in small urbanized areas, as long as the activities are primarily designed and delivered to benefit nonurbanized transit providers. When urbanized area providers are more than incidental beneficiaries of an RTAP supported activity, the NDDOT will allocate the costs of the activity fairly between RTAP and other sources. In such cases, RTAP funds will pay only for the proportion of the project costs attributable to the rural beneficiaries.

To apply for RTAP funding, the following process must be completed:

1. The transit project administrator completes a copy of the RTAP Travel Authorization
2. The person who will actually be traveling/participating in training signs the form requesting his/her travel authorization.
3. The signed form is submitted to the NDDOT Transit Office a minimum of 30 days prior to the first day of the training or other event.
4. An authorized NDDOT Transit Office staff member approves or rejects the request, and sends a copy of the form back to the transit project. (If the request is rejected, the reason for rejection is provided.)
5. Once a signed RTAP Travel Authorization is on file, the person named on the form is authorized to participate in the requested event.

To receive reimbursement for authorized RTAP travel, the following process must be completed:

1. The person who attended travel must complete a copy of the RTAP Travel Expense Reimbursement Voucher (see Appendix).
2. The person who actually travelled/participated in training signs the form requesting his/her travel expense reimbursement.
3. The signed form is submitted to the NDDOT Transit Office a maximum of 45 days after the last day of the training or other event.
4. The following documentation **MUST** be included with the signed form in order to receive reimbursement:
 - a. A “zero balance” lodging receipt (received at check-out)
 - b. Receipts for all ground transportation and parking. Public transportation or shuttles should be used if available.
 - c. Paid receipt for airfare or other commercial transportation, OR pre- and post-trip mileage readings when a transit project vehicle or personal vehicle is used, OR a combination of the two when the person travelling must drive to reach the departure location for commercial transportation.
 - d. Paid receipt for all conference and/or training registration fees
 - e. Receipts for any other expenses authorized on the RTAP Travel Authorization form
 - f. Meals, other than those included in the conference/training event agenda, are reimbursed.
5. Once the NDDOT Transit Office has the complete reimbursement form and all supporting documentation, the reimbursement will be processed.
6. All RTAP reimbursements are paid to the transit project. It is the transit project’s responsibility to reimburse its employees.

Maintenance of property: All property purchased with FTA funds shall have a written maintenance policy.

Vehicles: vehicles maintenance plans must be adopted by the agency, and copies distributed to appropriate personnel. ADA features such as lifts, ramps, and tie downs must be maintained and as recommended by the manufacturer. Documentation of maintenance must be maintained for 3 years beyond vehicle disposition.

Storage facilities: Facilities with state or FTA interest must have a building maintenance plan in place. All systems such as but not limited to HVAC, roof, floor, plumbing shall be inspected according to manufacturer recommendations or yearly if there is no manufacturer recommendation. ADA features must be maintained as recommended by the manufacturer. Building maintenance checklist should be posted in a conspicuous area of the building.

Charter rule: Title 49 U.S.C 5323(d) places limits on the charter services that Federally-funded public transportation operators may provide. (FTA C 9040.1F page X-14) [http://www.fta.dot.gov/library/legal/charter service/index.html](http://www.fta.dot.gov/library/legal/charter%20service/index.html)

“Charter service” means, (but does not include demand response service to individuals):

1. Transportation provided by a recipient at the request of a third party for the exclusive use of a bus or van for a negotiated price. The following features may be characteristic of charter service:

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

Charter service may be offered when the following conditions are met:

1. Attain the list of eligible charter providers from <http://www.fta.dot.gov/charterregistration>
2. Advertise to everyone off the email list from the FTA's website and email kadair@nd.gov at least 60 days prior to the trip.
3. If no response is received back from any willing or able charter provide the service can be provided.
4. Expenses related to the trip are paid for by independent funds. FTA must not be billed for charter related expenses.

Prohibition of exclusive school transportation: (FTA C 9040.1F page X-17)

Section 5323(f) prohibits the use of FTA funds for exclusive school bus transportation for school students and school personnel. The implementing regulation, 49 CFR part 605 does permit regular service to be modified to accommodate school students along with the general public.

Grantees are prohibited from providing exclusive school bus service unless the service qualifies and is approved by the FTA Administrator under an allowable exemption. Federally funded equipment or facilities cannot be used to provide exclusive school bus service. School tripper service that operates and looks like all other regular service is allowed.

“Tripper service” is allowed if it meets the following criteria.

- *Regularly scheduled mass transportation service*
- *Buses are clearly marked as open to the public*
- *Service has been modified to meet needs of students/school personnel*
- *Service uses various fare collection systems or subsidies*
- *Buses have no special designations (e.g., school bus, school special.)*
- *Buses use regular bus stops*
- *Service is noted on published schedules.*
- *Service operates and looks like all other regular service.*

Fixed Route Guidelines:

The NDDOT ADA regulations (49 CFR 37.161-167) detail specific service requirements. The grantee should demonstrate that the requirements are the common and effective practice. The grantee should maintain documentation to demonstrate that operators are trained in these requirements and how the grantee enforces their implementation. Fixed Route Compliance Questionnaire is included in the Appendix of this document.

Up to 10% of Section 5311 operating funds can be used for complementary paratransit which provides service in parallel to a fixed route system.

ADA:

All agencies must comply with ADA requirements as outlined in the FTA Master Agreement. All drivers must be proficient in using the ADA equipment in their vehicle. ADA service is required during regular service hours, regular service area, and in accordance with ADA regulations.

Meal Delivery Service :

Meal delivery service must be incidental to the transit service. It must not interfere with transit. FTA must not pay for the meal delivery system. Reporting of number and time of meal delivery should be made with each quarterly statement.

Safety and Security :

- Transit agencies should obtain a drug and alcohol test history for each applicant for safety sensitive positions.
- Transit agencies should obtain a yearly driving record check on all employees.
- Seat belt use by drivers and passengers is strongly recommended.
- Wheelchair securement is strongly recommended prior to vehicle movement. (Fixed route service may not have securement devices available. All other vehicles should have securement available.)

Accounting systems, audit and closeout is required as listed in the appropriate circular.

Accrual Basis of Accounting: The accounting method where income is recognized when earned instead of when received and expenses are recognized when incurred instead of when paid.

Audit: All recipients shall comply with the single Audit Act Amendments of 1996 and OMB Circular A-133. Each recipient must submit a copy of the audit to NDDOT by March 31st of each year or thirty days after completion of the OMB Circular A-133 Audit.

Close-Out: Grant projects are closed at the end of the contract period. NDDOT staff will determine at what point a project is ready to close. When a capital project has reached the end of the contract period and there is a balance of funds, those funds will be forfeited. In some instances capital contracts may be extended. If a capital project is not expected to be complete when the contract period ends, the subrecipient may request in writing an extension before the end of the contract period.

Sub recipient oversight and reporting

Oversight and reporting takes the form of the following:

1. Biyearly inspections, including agency site visit and review, and vehicle inspection.
2. Quarterly and yearly reports
3. Yearly applications
4. Informal contact and correspondence
5. Sub recipients shall provide additional information requested by NDDOT or FTA as needed.

Lobbying restrictions: (FTA C 9040.1F page X-14) Federal financial assistance may not be used to influence (directly or indirectly) 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. Subrecipients must certify compliance with restrictions on lobbying before they can receive funds.

Contract Revenues

Reimbursement by any organization, government, agency, or company, as a result of a formal contractual agreement with the transit service operator, for trips provided to a specific passenger or group of passengers is contract revenue. Contact the NDDOT staff for assistance in this matter.

SITE VISIT & REVIEW

This form will be used to document site visits and reviews of all North Dakota transit projects that receive FTA Sections 5309, 5310, 5311, 5316 and/or 5317 transit grant funds and recipients of state aid for public transit. Site visits and reviews will be conducted at a minimum of once every two years.

Note: The requirements for receiving State Aid for Public Transit are the same as for the federal programs listed above in order to maintain a consistent set of guidelines.

Date of Visit:

Name of Transit Project Visited:

Address:

Local Contact Person:

Phone:

Person Conducting Site Visit: Dave Kline

Total Number Operated: _____ **Buses** _____ **Vans**

The Following Items Are To Be Reviewed And Discussed With Local Transit Projects:

1. Local transit projects receiving Section 5311 or State Aid for Public Transit funds are to represent themselves as public transit projects that serve the general public. This should be indicated in some manner on the vehicles, for instance: "Public Transit" "Open to the Public" , etc. . . (must have 2 sources)				
a. Is there a sign in each vehicle indicating it is open to the public?	YES	NO		
b. Does the brochure or information handed out to riders state it is open to the public?				
c. If they have a web site, does it state it is open to the public?				
d. Other:				
2. Local transit projects receiving Section 5311 State Aid for Public Transit funds are to represent themselves as public transit projects that comply with Title VI of the Civil Rights Act of 1964. This should be indicated in some manner on the vehicles. A contact number must be provided.				
a. Is there a sign in each vehicle indicating Title VI compliance?	YES	NO		
b. Does the brochure or information handed out to riders state it is Title VI compliant?				
c. If they have a web site, does it state it is Title VI compliant?	YES	NO	None	
d. Is there a sign in each building indicating Title VI compliance?	YES	NO		
3. Civil Rights Requirements				

a. Equal Employment Opportunity (EEO) Requirements of Executive Order No. 11246. Is there a sign in the building notifying employees of their rights?	YES	NO
b. Disadvantage Business Enterprise requirements. Minority and women owned businesses.		
1. Are DBEs actively pursued when available?	YES	NO
2. Are any businesses in the area not currently registered but may be eligible?		
4. Americans with Disabilities Act (ADA) provisions.		
a. Are the facilities/building ADA compliant?	YES	NO
b. Are requests for ADA rides ever denied? (if yes, how many per month)		
c. Do all ADA features in vehicles work properly? (if no, please explain		
d. Are all drivers driving ADA vehicles proficient in the use of the ADA features? What proof of training to you have?		
e. Are service animals allowed to ride the vehicle?		
f. What is your policy for transporting of devices other than a “common wheelchair?”		
g. What is your provision for service when a mobility device cannot be secured?		
h. Do passengers using mobility devices transfer to a seat? If not, what action is taken?		
i. Is there signage designating priority seating for elderly persons and persons with disabilities for vehicles used in fixed route service?		
j. Does the driver request that persons sitting in priority seats vacate those seats when a person with a disability needs to use them?		
k. How are the above requirements communicated to employees, contractors, subrecipients and lessees?		
5. Does the local project have any current complaints or pending lawsuits relative to any of the above Civil Rights requirements? Describe of any lawsuits or complaints alleging discrimination in service delivery. Provide outcome of lawsuits or complaint.		
Summarize all civil rights compliance reviews, activities conducted since the last review. (purpose, organization conducting review, summary of findings and recommendations)		
6. Private Sector Participation Requirement. What efforts have been made to utilize private sector transit?		
7. Charter Service Restriction. Providing charter service is restricted.		

a. How many charter type trips are provided each year? (attach list)			
b. Was advertisement made on the FTA website?		YES	NO
8. School Transportation Restriction. No <u>exclusive</u> school bus service is allowed with FTA funds or equipment.			
a. How many school trips are made each month?		YES	NO
b. Does the service use the same route and stops as routine services?			
c. Is the service advertized in the brochures?			
9. Buy America Requirements must be included in any sub-contract for more than \$100,000			
10. Pre-Award / Post-Delivery Vehicle Purchase: Do procurement files seem complete?		YES	NO
11. Debarment and Suspension Certification Transit project must print proof of debarment and suspension status from epls.gov before any sub-contracts are awarded and the print must be retained in the procurement file.			
12. Passenger/Personnel Safety & Security.			
a. Have all drivers who average 20 or more hours per week had PASS training?			
b.			
c. If not, how many currently need PASS training?			
d. Is their training current?		If not, how many recerts. Are needed?	
e.			
f. What is your seat belt policy for drivers?	<u>Required</u>	<u>recommended</u>	<u>None</u>
g. What is your seat belt policy for passengers	<u>Required</u>	<u>recommended</u>	<u>None</u>
h. <u>Other:</u>			
13. Drug and Alcohol use			
a. What is the revision date on the Drug and Alcohol policy?			
b. Was it formally approved by your board?		YES	NO
c. Has it been handed out to all employees?			
d. How many drug tests have been taken in this calendar year?			
e. When was the last training session for employees concerning Drug and Alcohol Abuse?			
14. Commercial Drivers License. Required of all drivers operating buses designed to carry 16 or more people, including the driver. Are you in compliance with this requirement?		YES	NO
15. Restriction on Lobbying: Do you provide funding (directly or indirectly) that could be perceived as being used to influence politicians? If yes, please explain.			
16. Financial Management System / Capability. Payments to vendors, etc. Local transit projects must have these financial capabilities. Local projects must have sources and availability of local funds to match federal funds. List sources of local funds: Mill Levy, United way, Fund Raising, donations, etc.			
17. Meal deliveries with FTA funded vehicles: Allowable incidentally, but must <u>not</u> interfere with or reduce regular transit services. Also, cost of meal deliveries and other non-passenger use is not to be			

charged to FTA or state aid as transit costs.		
a. How many meals per month are delivered to congregate sites?		
b. Are transit vehicles used to deliver part/all of the meals? What %?		
c. How many meals per month are delivered to individuals?		
d. Are transit vehicles used to deliver part/all of the meals? What %?		
e. How are costs kept separate and not charged as Transit expenses?		
18. Preventive Maintenance, Vehicles: Review Local Vehicle Maintenance Practice/Process and written policy. Look at one sample local vehicle maintenance record to verify good maintenance practices i.e. regular oil changes, filter changes, etc.		
a. Check the date and mileage of last 3 oil changes		
b. Check the date of last filter change		
c. What is the date of last lift maintenance		
d. What is the date of last securement device maintenance		
19. All ADA equipment — i.e. wheelchair lifts or ramps, securement devices, etc. must be maintained in good operational condition. Needed repairs must be made immediately.		
a. Are drivers required to report needed repairs immediately?	YES	NO
b. Is the vehicle taken out of service within 30 minutes?		
c. How long before the vehicle is serviced?		
20. Preventive Maintenance, Buildings: Review Local Building Maintenance Practice/Process and written policy (where applicable). Spot check building maintenance file to verify good maintenance practices i.e. forms demonstrate that maintenance checks are being accomplished at the stated scheduled intervals.		
a. Is a Maintenance checklist posted in a conspicuous location	YES	NO
b. Is a written maintenance plan available?		
c. Is the plan followed?		
21. All ADA facilities — i.e. wheelchair ramps, restrooms, doorways, etc.—are maintained as designed and in operational condition. No furnishing, piece of equipment, building modification nor other post-construction alteration or item is allowed to alter the required clearance or create a condition that impacts use of ADA facilities.		
22. Visual Inspection — Tour the building to visually confirm that the items listed on the written policy and the building overall appear to be in good repair and condition. Note any exceptions and/or concerns.		
23. See attached sheets listing Vehicles Operated, Mileage, List Serial Numbers, and Assess Condition of Vehicles. (one sheet per vehicle).		

Reviewed with local project representative: _____

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
TRANSIT VEHICLE INSPECTION FORM
SECTIONS 5309, 5310, 5311, 5316 AND/OR 5317**

Date of Inspection: _____ Name of Person Inspection: _____

Name of Transit Organization: _____

Location of Project or Home Base: _____

Local Contact Person: _____

Vehicle Funded Through: Section _____ Other (specify): _____

Is the vehicle being used for its intended purpose? Yes No (explain below)

Is Vehicle in Revenue Service?: Yes No (explain below)

Year: _____ Make: _____

Model: _____ Color: _____

VIN: _____ Odometer Reading: _____

VIN Photo Attached: _____ Copy of Title Attached: _____

Accessible?: Lift Ramp No

GENERAL CONDITION (check one):

Very Good Good Fair Poor Very Poor

NOTICEABLE DAMAGE (if any):

Scratches Broken or Cracked Glass
 Dents Paint (chipped or peeling)
 Extensive Rusting Other _____

Spill Kit: Yes No First Aid Kit: Yes No Seat Belt Cutter Yes No

Open to Public Signage: Yes No Title VI Signs: Yes No

GUIDANCE FOR COMPETITIVE PURCHASE OF BUSES AND VANS
For grants administered by North Dakota Department of Transportation

Once a bus or van grant has been approved by the North Dakota Department of Transportation (NDDOT) through the Federal Transit Administration's (FTA) Sections 5310, 5311 and 5309 grant program, the following steps shall be followed by the local grant recipient (local project) to buy the vehicle in a competitive purchase process.

1. **A project agreement is signed between the NDDOT and the grant recipient, setting forth the purpose and terms for which the transit grant is provided.** The NDDOT will handle this requirement. Following this, the competitive purchase procedure can begin. **If vehicle will be purchased off the state bid, bold items must be completed. Other items can be skipped.**

2. The local project's vehicle specifications (to be used for competitive bidding) shall be reviewed and approved by the NDDOT prior to bid solicitation. If necessary, the NDDOT will provide sample specifications to the local project with which to start in developing suitable specifications for their particular local needs.

3. After the NDDOT's review and approval of the final vehicle specifications, **a written notice to proceed will be provided to the project from the NDDOT.** Then the local project shall place a notice for bid solicitation in at least one major newspaper in or near the local project area. This notice should be published twice, one week apart, with the second notice at least two weeks prior to the selected bid opening date. The bid solicitation period is to be at least 21 days in duration.

In addition to the newspaper solicitations cited above, requests for bids can also be made directly to all appropriate bus and van dealers by sending them the vehicle specifications and requesting bids. (See attached bus and van dealer list.)

4. Having received at least a minimum of two bids by the date of bid opening, the selected bid will be that of the responsible bidder whose bid will be the most advantageous to the purchaser, with price and other factors being considered. Copies of all bids (and the newspaper ad) are then sent to the NDDOT for review and concurrence with the local project's bid selection.

5. Upon NDDOT concurrence in the bid selection, the local project is approved to make the bid award. At this point, the local project is required to notify all bidders of its bid selection and then wait 5 days before placing the vehicle order. This will give the unsuccessful bidders an opportunity to protest the bid selection to the local project. In the absence of local project protest procedures, bidders can submit protests to the NDDOT in accordance with the Department's "Procurement Protest Procedures" (copy available by request).

Also, all submitted bus or modified van bids from bidders/vehicle vendors must include the following FTA (Federal Transit Administration) required documents: **Standard production vans and cars are exempt.**

- a. A copy of the manufacturer's self certification that the bus or modified van meets all applicable Federal Motor Vehicle Safety Standards (FMVSS).
- b. A summary of the bus or modified van test results for the proposed vehicle from Altoona, Penn.
- c. Documentation to show that the bus or modified van manufacturer has an FTA approved DBE.
- d. Buy America. If vehicle cost is over \$100,000

6. **When the vehicle arrives, the local project shall inspect it for meeting specifications as bid & ordered.** Then after accepting the vehicle, the local project usually pays the dealer the local match (less any prior down payment made.) The local project can then bill the NDDOT for its approved transit grant. **This billing should consist of a letter stating the acceptance of the vehicle and a copy of the dealer's invoice/bill of sale, showing all costs, a copy of all certifications required, and a copy of the acceptance checklist.** After receiving payment from the NDDOT, the local project then pays the dealer the remaining cost of the vehicle. The local project also has the option to pay for the vehicle in its entirety upon receiving delivery and then request grant reimbursement from the NDDOT.

Appeal process for private sector participation

Dispute process

Procurement Protest Procedures

The NDDOT encourages local transit projects to have their own procurement protest procedures in place in order to resolve procurement disputes at the local level. In the absence of local transit project procurement protest procedures relative to the purchase of transit vehicles, equipment, and/or services with federal grant funds, the FTA Disputes Clause will be followed. The FTA Disputes Clause is included by reference in all bid specification packages; full text of the clause is available upon request as noted in all bid specification packages and is also available to view online or download from the NDDOT web site as is also noted in all bid specification packages. The FTA Disputes Clause reads as follows:

Disputes. Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the North Dakota Department of Transportation (NDDOT). (The authorized representative of the NDDOT is its Local Government Engineer.) This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the NDDOT Local Government Engineer. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the NDDOT Local Government Engineer shall be binding upon the Contractor and the Contractor shall abide by the decision.

Rights and Remedies. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the NDDOT, Transit Project or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

NDDOT GUIDANCE FOR TRANSIT CAPITAL PURCHASES

Last Revised: October 2010

Capital expenses include the acquisition, construction and improvement of public transit facilities and equipment needed for a safe, efficient and coordinated public transportation system. The federal share of eligible facilities and equipment shall not exceed 80 percent of the net project cost unless special funding is authorized. State Aid can be used for the portion of the expense not reimbursed by federal funds.

Capital as awarded in separate contracts

1. buses, vans or other paratransit vehicles;
2. dispatch computer hardware or software; and
3. construction or rehabilitation of transit facilities including design, engineering and land acquisition.

Discretionary Capital include:

4. video surveillance cameras;
5. radios and communications equipment;
6. passenger shelters;
7. complete replacement of wheelchair lifts;
8. *Complete tire replacement and complete brake replacement IF the existing tires/brakes are at or near the warrantee period;
9. Must be competitive (two or more written quotes)
 - a. 80% of entire repair, requires written quotes for entire repair
 - b. If repair is accomplished by the transit project staff; 80% of major parts, requires written quotes for ALL major parts for which capital funds are being requested
 - c. When the repair is accomplished by the transit project, labor and incidental costs and parts not covered as capital expenses are reimbursed as operating expenses at 50/50 funding.
 - d. Auto body repair will be made at 50%.
10. Parts used for repairs accomplished by transit projects must either be:
 - a. New, or
 - b. Completely rebuilt with a warranty of 90 days or longer
11. extended warranties which do not exceed the industry standard;
12. Cost to upgrade phone system as NECESSARY to the transit project.

Notes:

1. ALL miscellaneous capital purchases require TWO (2) OR MORE BIDS to be accepted as competitive. Single bid purchases are not competitive and will NOT be reimbursed at the 80/20 rate.
2. Furniture, computers, monitors, dry erase boards are not capital items. In general, if it isn't attached to the building or vehicle, it isn't a capital cost.
3. *Complete tire and complete brake replacement will remain on the capital expenditure list as long as there is no abuse of the policy. Tires and brakes replaced before their warrantee life must be submitted as operating expenses, as those repairs are due to vehicle abuse. If any abuse is discovered, these items will be removed from the eligible capital expenditures list.

If you have any questions, or need additional information about capital purchases, call the Transit Office at **(701) 328-2194, 328-2191, 328-2542, or 328-2442.**

Reporting for Section 5310

Reporting time frame: October 1 20__ to September 30 20__

Name:		
Address:		
Amount of 5310 contract:		
Names of counties served (even if you only serve one city in that county)		
Number of rides from vehicles funded by 5310 funds in this reporting period: (If you have this GREAT, otherwise, you can estimate by taking your total number of 5310 vehicles / total number of vehicles * total number of rides)		
Lifetime number of rides on 5310 vehicles which are in use in this time frame. Please estimate if you do not have this information		
Number of eligible elderly and disabled people served by either of the following methods, but both are not necessary		
New vehicles funded with 5310 funds purchased during this reporting period		
Identify vehicle (make, model, last 5 digits of VIN)	Cost of vehicle	Date delivered

Report due October 15

Fixed Route Compliance Questionnaire

Transit Agency: _____

Date: _____

Bus Vehicles			
	YES	NO	
1. Since the last review, has the city purchased <i>new</i> bus vehicles for use in fixed route service? If yes:			
Do the vehicles comply with the applicable regulations under 49 CFR Part 37? (Transportation Services for Individuals with Disabilities)			
Do the vehicles comply with the applicable standards under 49 CFR Part 38? (Accessibility Specifications for Transportation Vehicles)			
2. Since the last review, has the state or a subrecipient purchased any <i>used</i> bus or rail vehicles for use in fixed route service?			
If yes, do the vehicles comply with the applicable standards under 49 CFR Part 38? If no:			
Does the state have documentation of good faith efforts meeting the requirements of 49 CFR Part 37 to obtain accessible used equipment?			
3. Since the last review, has the city remanufactured any existing bus or rail vehicles for use in fixed route service?			
If yes, are the vehicles readily accessible to people with disabilities, including those who use wheelchairs?			

4. Is school service being provided? "Tripper service" is allowed if it meets the following criteria.			
a. Is it a regularly scheduled service			
b. Are buses are clearly marked as open to the public			
c. Has service been modified to meet needs of students/school personnel			
d. Does the service use various fare collection systems or subsidies?			
e. Do buses have special designations (e.g., school bus, school special.)			
f. Do buses use regular bus stops			
g. If service noted on published schedules.			
h. Does the School tripper service operate and look like all other regular service.			

Service Provision			
5. What are the procedures or policies governing the following ADA requirements?			
a. Stop announcements on fixed route vehicles?			
b. Means of route identification at stops served by multiple vehicles on multiple routes?			
c. Service animals in vehicles and facilities?			
Are there any policies or practices that may have the effect of limiting service animal use?	YES	NO	
Are animals other than dogs recognized as service animals in the city's procedures?			
Are persons with disabilities other than visual impairments allowed to use service animals?			
May a passenger board a fixed route vehicle at any time, with no prior arrangements, with a service animal?			
d. Transporting of devices meeting the definition of a "common wheelchair?"			
e. Drivers providing assistance with the use of accessibility equipment on the vehicle, including lifts, ramps and securement systems?			
f. Securement policy for wheelchairs?			
g. Provision of service when a mobility device cannot be secured?			
h. Passengers using mobility devices transferring to a seat?			
i. Use of lifts or ramps by standees			
j. Signage designating priority seating for elderly persons and persons with disabilities for vehicles used in fixed route service?			
k. Requesting that persons sitting in priority seats vacate those seats when a person with a disability needs to use them?			
l. Use of accessibility-related equipment and features <i>such as automatic enunciators, stop request buttons, etc.?</i>			
m. Public information/communications available in accessible formats? In what formats is information regarding transportation services available?			
n. Lift/ramp deployment at any stop?			
o. Service to persons using respirators or portable oxygen?			
p. Time allowed for persons with disabilities to board/disembark vehicle?			

6. How are the above requirements communicated to employees, contractors, subrecipients and lessees?	
--	--

ADA Complementary Paratransit			
7. Do all subrecipients that provide fixed route service offer ADA complementary paratransit?	YES	NO	
Does the city have current ADA complementary paratransit plans?			
Has the current ADA complementary paratransit plans been submitted to the state?			
How does the city monitor the subrecipients to ensure compliance with ADA complementary paratransit requirements?			
8. What is the ADA complementary paratransit eligibility process?			
9. Does the ADA complementary paratransit eligibility process meet the following regulatory requirements:	YES	NO	
a. Are eligibility decisions made within 21 days of receipt of a complete application?			
If no, is presumptive eligibility granted?			
b. Are eligibility decisions based solely on a note from a physician?			
What percent of applicants are approved?			
c. Are persons who are denied eligibility or given conditional eligibility given a written notice with specific reasons for the decision and notice of their right to appeal?			
If conditional eligibility is granted, are conditions applied to individual trips?			
d. Does the appeals process adhere to the UDDOT ADA regulations (opportunity to be heard, separation of functions, decision within 30 days, and written notification of decision with reason for it)?			
e. If a decision is not made within 30 days of completing the appeals process, is transportation provided until and unless a decision to deny the appeal is issued?			
10. Does the ADA complementary paratransit meet the following regulatory requirements:	YES	NO	

a. Service provided to an ADA eligible individual?			
A personal care attendant (PCA)?			
A companion?			
Additional companions on a space available basis?			
b. What is the visitor policy?			
c. What type of service is provided?			
Is origin to destination service provided when needed?			
d. Is service provided within ¾-mile corridors of fixed routes and the core area?			
Is service provided beyond the ¾-mile corridors and core area? (not required)			
e. Is next day service provided? If yes, what percent of reservations are made for the next day?			
f. Are requests for reservations accepted during normal business hours on all days prior to days of service (e.g., weekends, holidays) even if the administrative office is closed?			
How are reservations accepted when the administrative office is closed?			
g. Are trips scheduled within one hour of the requested trip time?			
h. Are fares no more than twice the non-discounted fixed route fare for a comparable fixed route trip?			
i. Are PCAs charged a fare?			
Are companions charged a fare?			
j. If a free fare zone exists or a free shuttle service is offered, are comparable paratransit trips for that service area also free?			
k. Is ADA complementary paratransit available during the same hours and days as fixed route service?			
l. Are there priorities based on trip purposes?			
m. What percentage of service is subscription? (should not be more than 50%)			
Is non-subscription capacity available?			
11. How does the city monitor its and its subrecipients' ADA complementary paratransit service to ensure that there is no pattern or practice of:			

Trip denials?			
Lack of access to phone reservations?			
Untimely pick-ups?			
Missed trips?			
Excessively long trips?			
12. What is the denial rate (overall and for next-day trips)?			
What is the on-time performance rate?			
How are these data confirmed for accuracy?			
13. Are rides that are not provided in a one-hour window tracked as denials?	YES	NO	
14. When one leg of a round trip cannot be reserved, how many denials are tracked when the rider declines the round trip?			
15. What is the telephone hold time standard?			
How is telephone access measured (averages, percentiles, etc.)?			
16. For next day service, at what time of day are reservations cut off?			
17. At peak times, can a caller reach the reservation office?			
Do callers ever receive busy signals?			
How does the city or subrecipient know?			
18. How does a rider contact the reservation agent to cancel a trip?			
19. Is a no-show suspension/late cancellation policy used? If yes	YES	NO	
a. What is the suspension policy for no-shows?			
b. How does the city or subrecipient determine whether or not no-shows are under the rider's control?			
c. Are no-shows caused by operator error counted against the rider?			
d. What are the thresholds for a cancellation before it is considered a no-show?			
e. Under what circumstances are riders suspended from service?			
f. Are riders who have demonstrated a true pattern or practice of no-shows suspended?			

g. Are financial penalties assessed for no-shows?			
h. Are riders allowed to contest no-shows?			
i. Is there an appeals process for suspensions?			

Auxiliary Aids and Services

As a recipient of Federal Financial Assistance, the North Dakota Department of Transportation (NDDOT) assures compliance with Title VI of the Civil Rights Act of 1964, Regulations, and other pertinent directives. NDDOT is required to take reasonable steps to ensure meaningful access to persons with Limited English Proficiency (LEP) through oral and written translation.

Additionally, NDDOT has a responsibility to develop a policy in advance of any request for auxiliary aids or services for persons with impaired vision and hearing. With respect to the provision of auxiliary aids to access NDDOT/Transit Provider programs, services and activities, the most likely of these will be providing transit services and public meetings concerning public transit. Program areas where auxiliary aids and effective communications may be required include, but are not limited to the following: transit service provisions and meetings, bid opening events, Disadvantaged Business Enterprise (DBE) certification activities.

Auxiliary aids and services for deaf or hard of hearing include a wide range of services, equipment, and devices such as:

- sign language interpreter
- note takers
- computer-aided real-time transcription services (CART)
- amplified and hearing-aid compatible telephones
- assistive listening systems
- open or closed captioning and caption decoders
- video relay, or
- text telephones/ telephone communication devices for the deaf (TTY/TDD), and
- flashing alarms

Auxiliary aids and services for the vision impaired include providing access to printed information through the following:

- audiotape cassettes
- computer diskettes
- Braille or large print materials, or through the use of qualified readers
- providing verbal descriptions of action and visual information to enhance the accessibility of performances and presentations; and
- making a staff member available as a guide to enable a person with limited vision to find his or her way along an unfamiliar route

The following information provides a synopsis of the critical facts and costs involved in providing oral and written communication services.

North Dakota has laws governing Interpreter Services for individuals that are deaf, deaf-blind, speech impaired, hard of hearing, or who require special communication techniques in order to communicate. Our policy should identify what qualifications are required for interpreters after reviewing the North Dakota Century Code as the Federal Highway Administration (FHWA) Americans With Disabilities Act (ADA) Desk Reference states that when sign language interpretation is necessary, the ADA requires that it be provided by a “qualified interpreter” and defined at [28 C. F. R. § 35.104].

- ▶ North Dakota Century Code

- Under Occupations & Professions, Chapter 43-52 Interpreters
 - Defines requirements for deaf persons
 - Requires a valid nationally recognized certification or met certification by 2003
 - Contains exceptions
- Under Judicial Procedure, Civil, Chapter 28-33 Interpreters For Deaf Persons
 - Defines requirements for deaf persons
 - Includes administrative proceedings
 - Requires “Qualified interpreter”- certified by the national registry of interpreters for the deaf or ND Association for the deaf, interpreter approved by the superintendent of the school for the deaf, or, if none available, any other interpreter whose qualifications have been appropriately determined.

The FHWA ADA Desk Reference allows flexibility in providing accommodations. A visual communication accommodation may include the use of other auxiliary aids such as recorded text, electronic documents, or large print text depending on the circumstances.

The FHWA Limited English Proficiency Program Desk Reference states that oral interpreters are not required to have formal certification but certification is helpful. Recipients can ensure with greater certainty that they comply with their obligation to provide written translations in languages other than English by following the Safe Harbor provisions.

Safe Harbor. Many recipients would like to ensure with greater certainty that they comply with their obligations to provide written translations in languages other than English. Paragraphs (a) and (b) below outline the circumstances that can provide a “safe harbor” for recipients regarding the requirements for translation of written materials. A “safe harbor” means that if a recipient provides written translations under these circumstances, such action will be considered strong evidence of compliance with the recipient’s written-translation obligations under Title VI.

The failure to provide written translations under the circumstances outlined in paragraphs (a) and (b) does not mean there is noncompliance. Rather these paragraphs merely provide a guide for recipients that would like greater certainty of compliance than can be provided by a fact-intensive, four-factor analysis. For example, even if a safe harbor is not used, if written translation of a certain document(s) would be so burdensome as to defeat the legitimate objectives of its program, it is not necessary. Other ways of providing meaningful access, such as effective oral interpretation of certain vital documents, might be acceptable under such circumstances.

The following actions will be considered strong evidence of compliance with the recipient’s written-translation obligations:

- a. The TRANSIT PROVIDER provides written translations of vital documents for each eligible LEP language group that constitutes 5% or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
- b. If there are fewer than 50 persons in a language group that reached the 5% trigger in (a), the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

These safe harbor provisions apply to the translation of written documents only. They do not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are needed and are reasonable.

Available Sources

There are several sources to obtain auxiliary aids and services for persons with Limited English Proficiency or speech, hearing, and vision impairments. Some of the most common sources are as follows:

- ▶ Communication Services for the Deaf (CSD) and Interpreting Online (CSDIO)
- ▶ Relay North Dakota
- ▶ Interagency Program for Assistive Technology (IPAT)
- ▶ North Dakota School for the Deaf
- ▶ ND Vision Services/School for the Blind (NDVS/SB)
- ▶ ND Association for the Blind (NDAB)
- ▶ Language Line Services
- ▶ Pacific Interpreters, Inc.
- ▶ International Translation Services
- ▶ Metro Interpreter Resource Center (MIRC)

Communication Services for the Deaf (CSD) and Interpreting Online (CSDIO)

Interpreter rates, effective January 1, 2009, vary dependent on the date, time, etc. The base rate of two hours will be billed for each assignment ranging from \$104-\$150 with additional time billed in 30 minute increments at the rate of \$52-\$75 per hour. Additionally, if an assignment extends for a period of two hours or longer and the interpreter is signing non-stop, then a second interpreter is required. Charges include travel time within the Fargo-Moorhead city limits. If assignments are further than 20 miles outside of the Fargo-Moorhead city limits, travel time is billed at the hourly rate plus mileage at \$.50 per mile. For assignments less than 20 miles, a \$5 fuel charge is added to each invoice. The Cancellation Policy requires a 48 business hour advance notice for cancellations or the assignment will be billed in full.

Additionally, CSD operates CSDIO which enables deaf and hearing people in the same room to communicate through an interpreter at a distant location. Video conferencing equipment is required for this service.

Contact: Cathy Obregon, Communication Services for the Deaf, P.O. Box 66, Fargo, ND 58107;
(701) 799-1395; email: cobregon@c-s-d.org website: www.c-s-d.org

Relay North Dakota

Relay North Dakota is a free service within your local calling area that lets a person that is hearing or speech impaired communicate with standard telephone users through specially trained Communications Assistants (CA). Relay North Dakota serves TTY Users, Hearing Users, Voice Carry-Over (VCO), Hearing Carry-Over (HCO), Speech-to-Speech (STS), Spanish Relay, International Calls, and Emergency Calls. For example: A person who is deaf, deaf-blind, hard-of-hearing, or has a speech disability uses a Text Telephone (TTY) sometimes called a Telecommunication Device for the Deaf (TDD) to type his/her conversation. The CA reads the typed conversation to a hearing person. The CA relays the hearing person's spoken words by typing them back to the TTY user. Hearing Users such as NDDOT personnel can call hearing or speech impaired individuals from standard telephones through Relay North Dakota. Calls can be made worldwide 24 hours a day, 365 days a year. Long distance call rates are determined by the carrier of choice. Sprint long distance calls are billed at a reduced rate. Notify the CA of your preferred billing option. Toll calls may be billed through calling cards, prepaid cards, collect, and third party billing. There is no charge for Telecommunication Relay Services (TRS) calls placed from payphones.

Captioned Telephone Service (CapTel) is provided free of charge (except long distance charges) through Relay North Dakota and is ideal for people with some degree of hearing loss. A CapTel phone is required to use this service. A CapTel phone allows the impaired user to simultaneously hear the caller's voice and see captions of everything said to them. Online relay services through Sprint include Video Relay, Internet Relay, and IP Relay using AOL Instant Messenger (AIM).

Roxy Ennen, Relay ND Administrator, stated that most agencies have done away with the TTY/TDD, thus relieving the monthly cost for that service, as any deaf person can dial 711 or 877-366-8600 (toll free) and receive immediate free interpreter service from Relay North Dakota. Anyone can dial 771 or the toll free number to contact persons with hearing impairments at no cost, too.

Contact: Roxy Ennen, Relay ND Administrator, Telecommunications Analyst, ITD, Dept 112, 600 East Blvd., Bismarck, ND 58505-0100; (701)323-2300; email: rennen@state.nd.us
website: www.relaynorthdakota.com

Interagency Program for Assistive Technology (IPAT)

The North Dakota Interagency Program for Assistive Technology (IPAT), which is North Dakota's Statewide Assistive Technology (AT) Program, was established under the Department of Human Services (DHS), as a Program of the Division of Vocational Rehabilitation (VR) in 1993. At that time, DHS/VR was designated as the lead agency by the Governor. IPAT developed the goals and carried out all of the AT activities required under the AT Act from 1993 to 2005. Effective July 1, 2005, Governor Hoeven designated the North Dakota Association for the Disabled as the implementing entity for the Statewide AT Program. (Note: The entire IPAT operation moved under the administration of NDAD and became a program of NDAD as of July 1, 2005, thus providing sufficient time for NDAD/IPAT to prepare and submit the Statewide AT Plan.) DHS will continue to act as the lead agency, and will control and administer the funds made available through the grant awarded to the State; and will submit the application described in subsection (d) of the AT Act of 1998, as amended on behalf of the State, to ensure conformance with Federal and State accounting requirements.

IPAT is the North Dakota Telecommunications Equipment Distribution Service for relay equipment. IPAT provides free specialized telecommunications equipment for individuals who are deaf, hard-of-hearing, deaf-blind, or have a speech disability who meet income, residency, disability, etc., qualifications.

Contact: Judie Lee, Executive Director, Program Director, IPAT, 3509 Interstate Blvd., Fargo, ND 58103; (701) 365-4729; toll free 1-800-265-4728; email: jlee@polarcomm.com website: www.ndipat.org

North Dakota School for the Deaf

The North Dakota School for the Deaf maintains the ND Freelance Interpreter's List on their website. A disclaimer states that the interpreters listed are not endorsed or in any way recommended by the ND School for the Deaf other than the fact they hold national certification. The School for the Deaf provides no other auxiliary aids or services.

I contacted Mary Everson Heintz, a Bismarck resident on the ND Freelance Interpreter's List, provided an estimate for her services. She bills a minimum of one hour at \$35 per hour and ½ hour increments thereafter, Monday through Friday between 8:00am and 5:00pm.; after hours are billed at \$45 per hour and ½ hour increments thereafter. Ms. Heintz informed me that Interpreters set their own fees based on their level of certification. Bismarck State College has an interpreter, new to the Bismarck area, who interprets for students. Her name is Renee Bitner.

Contact: Eileen Gray, President of the ND Register of Interpreters for the Deaf, Lake Region State College, 1801 College Drive N, Devils Lake, ND 58301; (218) 969-3881; website: www.nd.gov/ndsd

Web link for Interpreters List: www.nd.gov/ndsd/outreach/doc/freelance-interpreters-2009.pdf

ND Vision Services/School for the Blind (NDVS/SB)

North Dakota Vision Services/School for the Blind operates a Braille Access Center that transcribes materials into Braille or large print and electronic media. The cost of a Braille project can be estimated by the following factors:

1. Costs: \$15 per hour; plus \$.15 per Braille page; \$3 per volume for comb binding and labeling
2. Expect each print page to equal approximately three Braille pages
3. 4-5 pages of text take 15-20 minutes to convert to Braille
3. Figure approximately \$1.25 per Braille page
4. Complexity of the material, such as tables and special formatting increases the cost.
5. Submitting Word documents and straight text will lessen costs

Contact: Crystal Roy, ND vision Services/School for the Blind, 500 Stanford Rd, Grand Forks, ND 58203; (701) 795-2713; email: croy@nd.gov website: www.ndvisionservices.com

ND Association for the Blind (NDAB)

The North Dakota Association for the Blind publishes the Promoter, a newsletter, quarterly in August, November, February, and May. The Promoter is available in large print, Braille, email, and audio tape. Submissions are due the 10th of the month preceding the issue. You may submit notices or information at no cost.

Contact: Michelle Zentz, President, NDAB, 1025 7th Ave S #5, Fargo, ND 58103; (701)298-9105; website: www.ndab.org or Zelda Gebhardt, Promoter Editor, zgeb@drtel.net (701) 493-2399

Language Line Services

Language Line Services is located in California and provides services nationwide. They provide telephonic interpreting in about 170 languages. They also provide document translation and web pages. They offer personal interpreter services where no contract is required. You dial in their number, pay by credit card (\$3.95/min.), and walk through the steps. Contractual services include other benefits such as tracking calls, speaking tips, reference guides, web meeting training, do's and don'ts. No on site interpretation is available in North Dakota.

Language Line Services also provides Video Interpreter Service for persons that are deaf. Video equipment is required to provide this service. You may view a brief video interpreting for a deaf person on their website listed below.

Language Line's representative, Greg Welsh, estimated contracted services at \$1.95/min. with a \$50/month minimum fee. You can use regular phones, but dual handsets are available at \$3.75/month, a rental/maintenance fee; if there is a problem with the phone you simply return it and receive a new replacement free; if you lose the phone, there is a \$200 replacement fee.

Contact: Greg Welsh, Language Line Representative 1-877-716-0669; website: www.languageline.com

Pacific Interpreters, Inc.

Pacific Interpreters, Inc. is located in Portland, Oregon and provides services nationwide. Pacific Interpreters provides customized information reporting including monthly detailed reports in Excel spreadsheets to save their clients time in compiling information about each encounter. They provide telephonic interpreting in over 180 languages and dialects

with language availability of 99.925%. They require a Service Agreement and charge on a floating rate based on call volume and language mix at a rate of \$1.50/minute for less than 500 minutes per month or \$1.30/minute for 500-1000 minutes per month. There is no monthly service fee. You can use regular phones or dual handsets are available. Pacific Interpreters offers accurate, fast, and affordable document translation in over 120 languages. They specialize in the translation of medical and social service documents including web pages. No on site interpretations is available in North Dakota. When you begin service with Pacific Interpreters, their implementation team will contact you to prepare a comprehensive implementation plan for your facility. They like to establish a working relationship with your interpreter program staff and a member of your IT department who can assist them in removing any technical barriers to using their service.

Contact: Emilie Gerber, Account Management Coordinator, Pacific Interpreters, Inc., 707 Washington, Suite 200, Portland, OR 97205; (503) 445-5652; website: www.pacificinterpreters.com

International Translation Services

International Translation Services is located in Moorhead, Minnesota. Leonor Sillers, owner, provides onsite and telephonic interpreters. On site interpreter fees are \$50/hr. minimum, plus \$50 each additional hour, plus state mileage rate; 24 hour cancellation notice required. Interpreters may be available instantly to days. Most are located in eastern North Dakota and Minnesota. All interpreters are certified by the Supreme Court of MN. Telephonic interpreter fees are \$2.50 per minute from connection. She also provides written translation services. The cost varies based on the # of words and technical level. She reviews the document and gives an estimate. She prefers email attachments in Word and returns either email or hard copy for us to reproduce copies. Leonor Sillers' terms would be a yearly contract. She would try to locate interpreters in SD and MT for our central and western areas. Leonor is a skilled interpreter in several languages and interprets, too.

Additionally, Leonor Silliers has a contract with Cass County Court. She has been used extensively by the ND Court System and has translated a lot of their documents. I visited with Sally Holewa in the Court Administrators Office. She highly recommended this service. She suggested visiting with the Fargo and Grand Forks Court regarding using this service, too.

Contact: Leonor Sillers via email: Leonor.Sillers@gmail.com no website

Metro Interpreter Resource Center (MIRC)

The Metro Interpreter Resource Center (MIRC) is located in and serves the Fargo area. They may be able to expand to the Grand Forks area. They work with local city and county government. Interpreters are not employees of MIRC. MIRC does provide interpreter training. MIRC provides access to an Oral Interpreter List for an annual fee of \$500 for nonprofits and \$750 for profit businesses.

On site or oral interpreters charge a 1 hour minimum of \$55, plus \$20 for each additional hour (no mileage fee in Fargo). Interpreters are qualified and some may be certified.

Fargo has approximately 13 languages and 9 dialects. Individuals who are illiterate speak Mother's Tongue which means their native language.

Fargo MPO may have access to the Oral Interpreter List.

Contact: Hatidza Asovic, Coordinator, MIRC, 3350 35th Ave SW, Fargo, ND 58104; (701) 241-8594;

email: hasovic@cityoffargo.com website: www.rrrmirc.com

Hatidza Asovic will do private work such as written translation informing LEP individuals of language assistance such as simple posters, flyers, and brochures with phone numbers or directions to an office. You could request written translation by emailing the item for a cost estimate. Ms. Asovic stated that basic posters don't have a lot of words so they would be pretty reasonable. Ms. Asovic is willing to help reach the LEP populations. She serves on various local committees, works with all of Fargo-Moorhead's LEP groups or key people in their cultures, and is involved with their churches, mosques, and hospitals. Contact Hatidza Asovic via email listed above.

Internet Resources

Limited English Proficiency, a Federal Interagency Website, promotes a positive and cooperative understanding of the importance of language access to federally conducted and federally assisted programs. It is located at www.lep.gov Under Resources there are numerous documents addressing language issues. See specifically the following documents:

- Accessing and Using Language Data from the Census Bureau
- Language Assistance Self-Assessment and Planning Tool for Recipients of Federal Financial Assistance
- Language Identification Flashcard (I Speak card)

United State Census Bureau, at the **Census** Bureau Web Site provides on-line access to Data on Race and Hispanic Origin, Age, Employment, Income, Marital Status, Education, Genealogy, Businesses, Governments and more. It is located at www.census.gov Under American Fact Finder you can locate detailed data sets. There is a Help tab available on the FactFinder ribbon. (Accessing Census Bureau Instructions are found at www.lep.gov listed above.)

North Dakota Department of Public Instruction website provides statistics on the location and number of students with Limited English Proficient skills. This information may provide an alternate method of identifying LEP populations. Their website is located at www.dpi.state.nd.us

- Select, Programs & Services
- Select, Bilingual & Language Acquisition Programs
- Select, Title III Information
- Select, List of English Learners by REAs (Regional Education Cooperative) for Limited English Proficient statistics for youth.

United States Access Board, a Federal Agency Committed to Accessible Design, is an independent federal agency devoted to accessibility for people with disabilities. The Board is now a leading source of information on accessible design. Their website is located at www.access-board.gov Under Guidelines & Standards see specifically the following:

- ADA Accessibility Guidelines (ADAAG (1991, as amended through 2002)
- Public Rights-of-Way (upcoming)

U.S. Department of Justice, Americans with Disabilities Act, ADA Home Page is found at www.ada.gov

- Scroll through ADA Publications to State and Local Governments
 - Select Title II Technical Assistance Manual.
 - Select the Title II Technical Assistance Manual (1993) and Supplement to view a 56-page manual that explains in lay terms what State and local governments must do to ensure that their services, programs,

and activities are provided to the public in a nondiscriminatory manner. Many examples are provided for practical guidance. (Spanish edition available from the ADA Information Line.)

US Department of Transportation, Federal Highway Administration (FHWA) carries out the Federal highway programs in partnership with the State and local agencies to meet the Nation's transportation needs. FHWA's website hosts vast information about nondiscrimination issues. FHWA's Home Page is found at www.fhwa.dot.gov Under FHWA by Topic, see specifically the following:

- Scroll through Topics to Environment
 - Select Environmental Justice (EJ) – this is the Home Page
 - Select Overview – describes and explains Environmental Justice issues
- Scroll through Topics to Road Users
 - Select Civil Rights – this is the Home Page
 - Under Programs – Select and read about FHWA Programs
 - Title VI and Nondiscrimination
 - Limited English
 - Many others

Sample Title VI posters for vehicles

Each vehicle must have an appropriate non-discrimination sign displayed.

STATEMENT OF NON-DISCRIMINATION

No person in the US shall, on the grounds of race, color, national origin, disability, sex, age or income status, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Federal funds.

Contact the Project Director at 701-_____ to request additional information on our nondiscrimination obligations or to file a complaint.

STATEMENT OF NON-DISCRIMINATION

No person in the US shall, on the grounds of race, color, national origin, disability, sex, age or income status, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Federal funds.

Contact the Project Director at 701-_____ to request additional information on our nondiscrimination obligations or to file a complaint.

This transit service is

OPEN TO THE PUBLIC

TITLE VI COMPLAINT FORM

[NAME OF TRANSIT PROVIDER]

PART I - COMPLAINANT INFORMATION (Print all items legibly.)

Name		Telephone
Street Address/P.O. Box		Email Address
City	State	Zip Code

PART II - CAUSE OF DISCRIMINATION BASED ON [Check all appropriate box(es).]

- Race Color Sex Age National Origin Disability/Handicap
- Income Status

PART III - THE PARTICULARS ARE: (Include names, dates, places, and incidents involved in the complaint.) [If additional space is needed, attach extra sheet(s).]

PART IV - REMEDY SOUGHT [State the specific remedy sought to resolve the issues(s).]

PART V - VERIFICATION

Complainant's Signature _____ Date _____

Instructions

GENERAL

1. Under Title VI of the Civil Rights Act of 1964 and the related statutes and regulations, no person or groups(s) of persons shall, on the grounds of race, color, sex, age, national origin, disability/handicap, and income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by **(TRANSIT PROVIDER)**. Any person or groups(s) of persons who feel they have been discriminated against may file a complaint.
2. Instructions provided within this form are not meant to be all inclusive. Complainants are responsible for all procedural requirements.
3. Complainants **must** include all required information and **must** meet all timeframes as defined in the **(TRANSIT PROVIDER) Title VI Complaint Procedure**.
4. Legible copies of all available pertinent documentation should be attached to this form.
5. All inquiries should be directed to **(Name of Title VI Coordinator, TRANSIT PROVIDER, Street Address/P.O. Box, City, State, Zip Code, Telephone, TTY)**.

PART I : Complete all information in this section.

PART II: Check all boxes that apply indicating the basis for the complaint. The discrimination **must** be based on at least one of the listed categories.

PART III: State the specific complaint in a manner that clearly identifies the issues upon which the complaint is based.

PART IV: State the minimum remedy acceptable for resolution of this complaint.

PART V: Sign and date this section to verify the information contained in Parts I through IV.

Complaints filed with U. S. Department of Transportation

Discrimination complaints based on race, color sex, age, national origin, disability/handicap, and income status may be filed with the Secretary, U.S. Department of Transportation, Room 4132, 400 Seventh Street, Southwest, Washington, D.C. 20590. The complaint **must** be filed, in writing, no later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary, U.S. Department of Transportation.

Limited English Proficiency Plan
[TRANSIT AGENCY NAME]
DATE

**TITLE VI COORDINATOR
NAME AND WORKING TITLE OF THE TITLE VI COORDINATOR
ADDRESS
PHONE NUMBER**

INTRODUCTION

This *Limited English Proficiency Plan* has been prepared to address the **(TRANSIT AGENCY’S)** responsibilities as a recipient of federal financial assistance as they relate to the needs of individuals with limited English proficiency language skills. The plan has been prepared in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq, and its implementing regulations, which state that no person shall be subjected to discrimination on the basis of race, color or national origin.

Executive Order 13166, titled *Improving Access to Services for Persons with Limited English Proficiency*, indicates that differing treatment based upon a person’s inability to speak, read, write or understand English is a type of national origin discrimination. It directs each agency to publish guidance for its respective recipients clarifying their obligation to ensure that such discrimination does not take place. This order applies to all state and local agencies which receive federal funds, including all **(TRANSIT AGENCY)** departments receiving federal grant funds.

Plan Summary

The **(TRANSIT AGENCY)** has developed this *Limited English Proficiency Plan* to help identify reasonable steps for providing language assistance to persons with limited English proficiency (LEP) who wish to access services provided. As defined Executive Order 13166, LEP persons are those who do not speak English as their primary language and have limited ability to read, speak, write or understand English. This plan outlines how to identify a person who may need language assistance, the ways in which assistance may be provided, staff training that may be required, and how to notify LEP persons that assistance is available.

In order to prepare this plan, the **(TRANSIT AGENCY)** used the four-factor LEP analysis which considers the following factors:

1. The number or proportion of LEP persons in the service area who may be served by the **(TRANSIT AGENCY)**.
2. The frequency with which LEP persons come in contact with **(TRANSIT AGENCY)** services.
3. The nature and importance of services provided by the **(TRANSIT AGENCY)** to the LEP population.
4. The interpretation services available to the **(TRANSIT AGENCY)** and overall cost to provide LEP assistance. A summary of the results of the four-factor analysis is in the following section.

MEANINGFUL ACCESS: FOUR-FACTOR ANALYSIS

1. **The number or proportion of LEP persons in the service area who may be served or are likely to require (TRANSIT AGENCY) services.**

The **(TRANSIT AGENCY)** staff reviewed the 2000 U.S. Census Report and determined that xx persons in **(TRANSIT AGENCY)** [x.x% of the population] speak a language other than English. Of those xx persons xx [x.x%] have limited English proficiency; that is, they speak English “not well” or “not at all”, this is only a .xx% of the overall population in the service area. In **(TRANSIT AGENCY’S)** service area, of those persons with limited English proficiency, xx speak Spanish, xx speak Indo-European, and xx speak Asian or other Pacific Islander Languages.

2. **The frequency with which LEP persons come in contact with (TRANSIT AGENCY) services.**

The **(TRANSIT AGENCY)** staff reviewed the frequency with which the board/council, office staff and bus/van drivers have, or could have, contact with LEP persons. This includes documenting phone inquiries or office visits. To date, the (TRANSIT AGENCY) has had no requests for interpreters and no requests for translated program documents. The board/council, office staff and bus/van drivers have had very little contact with LEP persons.

3. The nature and importance of services provided by the (TRANSIT AGENCY) to the LEP population.

There is no large geographic concentration of any type of LEP individuals in the service area for the **(TRANSIT AGENCY)**. The overwhelming majority of the population, xx.x%, speak only English. As a result, there are few social, service, professional and leadership organizations within the **(TRANSIT AGENCY)** service area that focus on outreach to LEP individuals. The **(TRANSIT AGENCY)** board/council, office staff and bus/van drivers are most likely to encounter LEP individuals through bus/van rides, office visits, phone conversations, and attendance at Board/Council meetings.

4. The resources available to the (TRANSIT AGENCY), and overall costs to provide LEP assistance.

The (TRANSIT AGENCY) reviewed its available resources that could be used for providing LEP assistance, which of its documents would be most valuable to be translated if the need should arise, and contacted local citizens that would be willing to provide voluntary Spanish translation if needed within a reasonable time period. Other language translation if needed would be provided through a telephone interpreter line for which the city would pay a fee.

LANGUAGE ASSISTANCE

A person who does not speak English as their primary language and who has a limited ability to read, write, speak or understand English may be a Limited English Proficient person and may be entitled to language assistance with respect to **(TRANSIT AGENCY)** services. Language assistance can include interpretation, which means oral or spoken transfer of a message from one language into another language and/or translation, which means the written transfer of a message from one language into another language.

How the **(TRANSIT AGENCY)** staff may identify an LEP person who needs language assistance:

- Post notice of LEP Plan and the availability of interpretation or translation services free of charge in languages LEP persons would understand.
- All **(TRANSIT AGENCY)** staff will be provided with “I Speak” cards to assist in identifying the language interpretation needed if the occasion arises.
- All **(TRANSIT AGENCY)** staff will be informally surveyed periodically on their experience concerning any contacts with LEP persons during the previous year.
- When the **(TRANSIT AGENCY)** sponsors an informational meeting or event, an advanced public notice of the event should be published including special needs related to offering a translator (LEP) or interpreter (sign language for hearing impaired individuals). Additionally, a staff person may greet participants as they arrive. By informally engaging participants in conversation it is possible to gauge each attendee’s ability to speak and understand English. Although translation may not be able to be provided at the event it will help identify the need for future events.

Language Assistance Measures

Although there is a very low percentage in the **(TRANSIT AGENCY)** of LEP individuals, that is, persons who speak English “not well” or “not at all”, it will strive to offer the following measures:

1. The **(TRANSIT AGENCY)** staff will take reasonable steps to provide the opportunity for meaningful access to LEP clients who have difficulty communicating English.
2. The following resources will be available to accommodate LEP persons:
 - Volunteer interpreters for the Spanish language are available and will be provided within a reasonable time period.

- Language interpretation will be accessed for all other languages through a telephone interpretation service.

STAFF TRAINING

The following training will be provided to all staff:

- Information on the Title VI Policy and LEP responsibilities.
- Description of language assistance services offered to the public.
- Use of the “I Speak” cards.
- Documentation of language assistance requests.
- How to handle a potential Title VI/LEP complaint.

All contractors or subcontractors performing work for the (TRANSIT AGENCY) will be required to follow the Title VI/LEP guidelines.

TRANSLATION OF DOCUMENTS

The (TRANSIT AGENCY) weighed the cost and benefits of translating documents for potential LEP groups. Considering the expense of translating the documents, the likelihood of frequent changes in documents and other relevant factors, at this time it is an unnecessary burden to have any documents translated.

Due to the very small local LEP population, the (TRANSIT AGENCY) does not have a formal outreach procedure in place, as of 2010. Translation resources have been identified and are limited in this region. However, when and if the need arises for LEP outreach, the (TRANSIT AGENCY) will consider the following options:

- When staff prepares a document, or schedules a meeting, for which the target audience is expected to include LEP individuals, then documents, meeting notices, flyers, and agendas will be printed in an alternative language based on the known LEP population.

MONITORING

Monitoring and Updating the LEP Plan - The (TRANSIT AGENCY) will update the LEP Plan as required. At a minimum, the plan will be reviewed and updated when data from the 2010 U.S. Census is available, or when it is clear that higher concentrations of LEP individuals are present in the (TRANSIT AGENCY) service area. Updates will include the following:

- The number of documented LEP person contacts encountered annually.
- How the needs of LEP persons have been addressed.
- Determination of the current LEP population in the service area.
- Determination as to whether the need for translation services has changed.
- Determine whether local language assistance programs have been effective and sufficient to meet the need.
- Determine whether the (TRANSIT AGENCY's) financial resources are sufficient to fund language assistance resources needed.
- Determine whether the (TRANSIT AGENCY) fully complies with the goals of this LEP Plan.
- Determine whether complaints have been received concerning the agency's failure to meet the needs of LEP individuals.
- Maintain a Title VI complaint log, including LEP to determine issues and basis of complaints.

DISSEMINATION OF THE (TRANSIT AGENCY) LEP PLAN

- Post signs at conspicuous and accessible locations notifying LEP persons of the LEP Plan and how to access language services.
- State on agendas and public notices in the language that LEP persons would understand that documents are available in that language upon request at xxxxxxxxxx.

COMPANY NAME HERE

Drug and Alcohol Policy

This is just an example of a cover page. You may do anything you want as long as the basic information is present. You may add your logo if you want.

FORMAL APPROVAL OF POLICY

This Drug and Alcohol Policy has been approved by the **Company Name** Board of Directors and will be strictly adhered to.

Board of Directors
Company Name

Date

Your Company Name Here
Company Address
City, State & Zip Code

Telephone Number
FAX Number

Table of Contents

1.0	Policy.....	3
2.0	Purpose	
3.0	Applicability	
4.0	Prohibited Substances.....	4
4.1	Illegally Used Controlled Substances or Drugs	
4.2	Legal Drugs	
4.3	Alcohol	
5.0	Prohibited Conduct.....	5
5.1	Manufacture, Trafficking, Possession and Use	
5.2	Intoxication	
5.3	Alcohol Use	
5.4	Compliance with Testing Requirements	
5.5	Treatment Requirements.....	7
5.6	Notifying the Transit System of Criminal Drug Conviction	
5.7	Proper Application of the Policy	
6.0	Testing Procedures.....	7
6.1	Employee Requested Testing.....	9
6.2	Pre-Employment Testing	
6.3	Reasonable Suspicion Testing.....	10
6.4	Post-Accident Testing	
6.5	Random Testing.....	11
6.6	Return-to-Duty Testing	
6.7	Follow-Up Testing	
6.8	Dilute Negative Policy	
6.9	Information Disclosure.....	12
7.0	Employment Assessments.....	12
8.0	Re-entry Contracts	
9.0	Employee and Supervisor Training	
10.0	System Contact.....	13
11.0	Future Changes or Modifications.....	14
12.0	Formal Approval of Policy.....	15
	Attachment A. Covered Positions by Job Title-Safety Sensitive Functions.....	16
	Attachment B. List of Medications.....	17
	Attachment C. Alcohol Fact Sheet.....	18
	Acknowledgment of Receipt.....	20

All text in boldface print indicates Federal Transit Administration required elements as set forth in 49 CFR Part 40 and Part 655 as amended

All text in italics indicate provisions set forth in the Drug Free Work Place Act
All other text is under the authority of **Company Name**

Company Name

SUBSTANCE ABUSE POLICY

1.0 POLICY

Company Name is dedicated to providing safe, dependable, and economical transportation services to our transit system passengers. **Company Name** employees are a most valuable resource and it is our goal to provide a healthy, satisfying work environment which promotes personal opportunities for growth. In meeting these goals, it is our policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) create a workplace environment free from the adverse effects of drug abuse and alcohol misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession or use of controlled substances; and (4) encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

To assist in meeting these goals, **Company Name** will provide 60 minutes of training to all safety sensitive employees on the effects and consequences of prohibited drug use on personal health, safety, and the work environment

It is the policy of the company to enforce a strict “Zero Tolerance” Policy for those individuals covered under this policy. No “second chance” consideration will be made for those individuals who have a positive alcohol or controlled substances test as outlined in this policy.

2.0 PURPOSE

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risk posed by the misuse of alcohol and abuse of prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandate urine drug testing and breath alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result. The U. S. Department of Transportation (UDDOT) has also published 49 CFR Part 40, as amended, that set standards for the collection and testing of urine and breath specimens. In addition, the Federal government published 49 CFR Part 29, “The Drug-Free Workplace Act of 1988,” which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA. This policy incorporates those requirements for safety-sensitive employees and others when so noted.

3.0 APPLICABILITY

This policy applies to all safety-sensitive transit system employees, paid part-time employees, contract employees, volunteers (who receive remuneration in excess of expenses incurred while performing a covered activity or are required to hold a CDL to operate a vehicle) and contractors when they are on transit property or **when performing any transit-related safety-sensitive business.** This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work.

A safety-sensitive function is any duty related to the operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), dispatch, maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, and operating a non-revenue service vehicle when required to be operated by a holder of a Commercial Driver's License. Safety-sensitive positions are identified in Attachment A.

4.0 PROHIBITED SUBSTANCES

"Prohibited substances" addressed by this policy include the following:

4.1 Illegally Used Controlled Substances or Drugs

The use of any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana (including medical marijuana), amphetamines, opiates, phencyclidine (PCP), cocaine, ecstasy, eve, heroin, an initial test for Methylenedioxymethamphetamine (MDMA) and a confirmatory test for MDMA, Methylenediosymphetamine (MDA), Methylenediosethylamphetamine (MDEA) and additional testing for 6-Acetylmorphines for opiate positives above the initial test cutoff concentration as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.

4.2 Legal Drugs

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance, which carries a warning label that indicates that mental functioning, motor skills or judgment may be adversely affected, must be reported to a transit system supervisor. In addition, the employee must obtain a written release from the attending physician releasing the person to perform their job duties any time they obtain a performance-altering prescription. Medical Marijuana under a state law does not constitute a valid medical explanation under federal law and will be considered a positive drug test result.

A legally prescribed drug means that the individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing transit business is prohibited.

Transit employee(s) performing safety-sensitive job functions and taking OTC and legally prescribed drugs must:

- Confer with their physician prescribing the medication to ascertain pertinent side effects of prescription and/or OTC medications and inquire into alternative treatment options
- Seek medical advice, as appropriate, before performing work-related duties.
- Report legally prescribed and OTC medication being taken to appropriate transit management/supervisory personnel
- Advise his/her supervisor/management staff personnel if the use of such prescribed drugs/medication affects his/her ability to drive and/or work safely.

Company employee(s) performing safety-sensitive job functions that are taking prescription/OTC medication that may jeopardize their ability to safely perform their safety-sensitive job functions are medically disqualified for as long as they are taking the medication.

A list of some of the medications identified by the National Transportation Safety Board and Federal Transit Administration as medications of concern, are covered in Attachment B of this policy.

4.3 Alcohol

The use of beverages containing alcohol or substances including any medication, mouthwash, food, candy or any other substance such that alcohol is present in the body while performing transit business is prohibited. The concentration of alcohol is expressed in terms of alcohol per 210 liters of breath as measured by an evidential breath-testing device. **Employees may not use alcohol for 4 hours before performing, while on call to perform a safety sensitive duty, and while performing a safety-sensitive duty.**

Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.

5.0 PROHIBITED CONDUCT

5.1 Manufacture, Trafficking, Possession and Use

Safety-sensitive transit system employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession or use of prohibited substances on transit authority premises, in transit vehicles, in uniform or while on transit authority business. Employees who violate this provision will be discharged. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

5.2 Intoxication

Any safety-sensitive employee who is reasonably suspected of being unfit or incapable for duty shall be immediately suspended from job duties pending investigation. Employees found to be under a prohibited substance or **who fail to pass a drug or alcohol test shall be immediately removed from duty** and subject to termination. **A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance above the minimum thresholds defined in 49 CFR Part 40, as amended, or the individual refused to take a required test as described in policy Section 5.4.**

5.3 Alcohol Use

No safety-sensitive employee should report for duty or remain on duty when his/her breath alcohol concentration is greater than 0.02. No safety-sensitive employee shall use alcohol while on duty, or while performing safety-sensitive functions, or just before or just after performing a safety-sensitive function. No safety-sensitive employee shall consume alcohol within four hours of reporting for duty, or during the hours that they are on call. Violation of these provisions is prohibited and punishable by termination.

5.4 Compliance with Testing Requirements

In accordance with part 655, all safety sensitive employees shall be subject to urine drug testing, and breath alcohol testing as a condition of employment. Any safety-sensitive employee who refuses to comply with a request for testing shall be immediately removed from duty and their employment terminated. Any safety-sensitive employee shall not consume alcohol while on duty, or while performing safety-sensitive functions, or just before or immediately after performing a safety-sensitive function. No safety-sensitive employee shall consume alcohol within four hours of reporting for duty, or during the hours that they are on call. Violation of these provisions is prohibited and punishable by termination. Any safety-sensitive employee who is suspected by the collector during the specimen collection process of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an immediate observed second collection. Verification of these actions will result in the employee's immediate removal from duty and termination of employment.

Any person who has been given a conditional job offer subject to pre-employment drug testing and leaves the testing site once testing has commenced (i.e., once the collector provides the individual with the urine collection cup), shall be deemed to have refused the test. Failure to show up for or leaving the collection site prior to commencement of the pre-employment drug test is not considered a refusal.

The following circumstances constitute a test refusal:

- 1. Failure to appear for any test (except pre-employment) within a reasonable time after being notified to go**
- 2. Failure to remain at the testing site until the testing process is complete**
- 3. Failure to provide adequate specimen for any drug or alcohol test required by UDDOT/FTA rules**
- 4. Refusal to allow the observation or monitoring of a specimen collection when it is required**
- 5. Failure to provide a sufficient urine or breath sample without an adequate medical explanation for the failure**
- 6. Failure to take a second drug test that the employer or collector has directed the employee to take**
- 7. Failure to undergo a medical exam as directed by the employer or the Medical review Officer (MRO) as part of the verification process, or "shy bladder" or "shy lung" procedures**
- 8. Failure to cooperate with the testing process (Examples: refusal to empty pockets when requested, behaving in a confrontational manner that disrupts the process, or failure to wash hands after being directed to do so by the collector)**
- 9. For an observed collection, failure to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants to mid-thigh, and to turn around to allow the observer to see if employee is wearing a prosthetic or similar device that could be used to interfere with the collection process**
- 10. Possession or wearing of a device as described above intended to help the employee pass the drug test**
- 11. Admitting adulteration or substitution of the specimen to the collector or the MRO**
- 12. If the MRO reports a verified adulterated or substituted test result**
- 13. In alcohol testing, refusal to sign Step 2 of the Alcohol Testing Form**
- 14. Leaving the scene of the accident without just cause prior to submitting to a required test.**

A drug test can be performed any time a safety sensitive employee is on duty. An alcohol test can only be performed when the safety sensitive employee is actually performing a safety sensitive duty, just before, or immediately after the performance of a safety sensitive duty.

5.5 Treatment Requirements

All employees are encouraged voluntarily to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under certain circumstances, employees may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with transit system requirements for treatment, after care, or return to duty shall be subject to termination. The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider. Employees will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program. The provisions of this paragraph 5.5 apply to employees who voluntarily seek treatment prior to notification for a drug or alcohol test. Any employee with a positive test result will be subject to termination.

5.6 Notifying the Transit System of Criminal Drug Conviction

*In accordance with the Drug Free Work Place Act of 1988, any individual covered by this policy who is convicted of any criminal drug statute for a violation occurring on duty, on company premises or customer premises, while operating any company vehicle shall notify the Designated Employer Representative (DER) or the **Company Name** Director no later than five days after such conviction.* Pursuant to the Federal Drug-Free Workplace Act, the company will notify the appropriate federal granting or contracting agency, if any, of the conviction within ten (10) days after receiving such notification. Within thirty (30) days after receiving notice from an individual covered by this policy of a drug-related conviction, the company, at its sole discretion, will take appropriate personnel action against the individual up to and including termination, or require the individual to satisfactorily participate in a drug abuse assistance or rehabilitation program. Failure to comply with this provision shall result in disciplinary action, up to and including termination.

5.7 Proper Application of the Policy

The transit system is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, leaders/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

6.0 TESTING PROCEDURES

Analytical urine drug testing, and breath testing for alcohol may be conducted when circumstances warrant or as required by UDDOT/FTA regulations. **All safety-sensitive employees shall be subject to testing for pre-employment, for reasonable suspicion, and following an accident as defined in policy Sections 6.2, 6.3 and 6.4. Those employees who perform safety-sensitive functions as defined in the attachment A to this policy shall also be subject to testing on a random, unannounced basis as defined in policy Section 6.5.**

All safety sensitive and non safety sensitive employees who voluntarily submit to a rehabilitation program prior to testing positive on a drug or alcohol test will be tested prior to returning to duty following completion of the Substance Abuse Professional's recommended treatment program. Follow-up testing will also be conducted following return to duty for a period of one to five years with at least six tests performed during the first year.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment and laboratory facilities, which have been approved by the U.S. Department of Health and Human Service (DHHS). All testing will be conducted consistent with the procedures put forth in 49 CFR Part 40, as amended. A copy of 49 CFR Part 40 is available from the DER upon request.

The drugs that will be tested for in a urine specimen include marijuana, cocaine, opiates, amphetamines, phencyclidine, ecstasy, eve, heroin, an initial test for Methylenedioxymethamphetamine (MDMA) and a confirmatory test for MDMA, Methylenediosymphetamine (MDA), and Methylenediosethylamphetamine (MDEA). All urine specimen drug testing will be conducted at a DHHS-certified laboratory. An initial drug screen will be conducted on each urine specimen. For those specimens with non-negative initial drug screen results, confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) testing is conducted. The test result will be considered positive if the amount(s) present are above the minimum thresholds established in 49 CFR 40.87.

Breath alcohol testing will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved testing device operated by a trained breath alcohol technician (BAT). If the initial test indicates a breath alcohol concentration greater than 0.02 BAC, a second confirmatory test will be performed. The confirmatory test will be performed using an NHTSA-approved evidential breath-testing device (EBT) operated by a trained BAT. A safety-sensitive employee who has confirmatory breath alcohol concentration between 0.02 BAC and 0.039 BAC will be immediately removed from duty for eight hours or the remainder of the work day whichever is longer, unless a retest results in a concentration measure of less than 0.02. A confirmatory breath alcohol concentration greater than 0.04 will be considered a positive alcohol test in violation of this policy and a violation of the requirements set forth in 49 CFR Part 655 for safety-sensitive employees.

The consequences for covered employees who have a verified drug or a confirmed alcohol test result with an alcohol concentration of 0.04 or greater, or who refuse to submit to a test under this part, include the mandatory requirements that the covered employee be removed from his/her safety-sensitive function and the employee be evaluated by a Substance Abuse Professional (SAP), as required by 49 CFR Part 40. Per **Company Name** Drug and Alcohol policy, any employee who tests positive for drugs and/or alcohol or refuses to test will be referred to a SAP and terminated from employment. The cost of any treatment or rehabilitation services will be paid directly by the employee.

Company Name affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process.

Consistent with the requirements in 49 CFR 40.67, an immediate urine specimen collection will be conducted under direct observation (by a person of the same gender) with no advance notice if:

- (1.) The DHHS-certified laboratory reports to the MRO that a specimen is invalid, and the MRO reports to **Company Name** that there was no adequate medical explanation for the result.
- (2.) The MRO reports to **Company Name** that the original positive, adulterated, or substituted test result had to be canceled because the test of the split specimen could not be performed.

- (3.) The MRO directs **Company Name** to conduct a recollection under direct observation because the creatinine concentration of the initial specimen collected was equal to or greater than 2 mg/dL but less than or equal to 5 mg/dL;
- (4.) The collector must immediately conduct a collection under direct observation if:
 - The employee is directed by **Company Name** to do so;
 - The collector observes materials brought to the collection site by the donor or the donor's conduct clearly indicates an attempt to tamper with a specimen; or
 - The temperature of the original specimen is outside the acceptable range of 90-100 degrees ° Fahrenheit.
- (5.) **Company Name** will direct an employee to provide a urine specimen under direct observation for return-to-duty and follow-up drug tests.
- (6.) **Company Name** will direct an employee to provide a urine specimen under direct observation any time there is specific reason to believe that any employee may be attempting to thwart the rule or has sufficient reason to evade the testing process.

6.1 Employee Requested Testing

Any safety-sensitive employee or applicant who questions the results of an MRO verified positive, adulterated, or substituted drug test result may request that the split sample be tested at a second DHHS certified testing laboratory. This test must be conducted on the split sample (the original specimen was separated into two bottles – the primary sample and the split sample). **Company Name** will seek to be reimbursed from the employee for all costs of such testing unless the result of the split sample test invalidates the result of the original test. **The method of collecting, storing and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended.** The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted by the MRO if the delay was due to documentable facts that were beyond the control of the employee.

6.2 Pre-Employment Testing

All applicants for safety-sensitive positions shall undergo urine drug testing prior to hiring or transfer into a safety-sensitive position. All offers of employment for safety-sensitive positions shall be extended conditional upon the applicant passing a drug test. If any employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days or more, regardless of reason, and the employee had been removed from the transit system's random testing selection pool during that time period, a pre-employment drug test is required. An MRO-verified negative result must be obtained prior to the performance of any safety-sensitive work. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded. **Company Name** will provide each applicant or employee who fails a pre-employment drug test with the name, address, and telephone number of the available Substance Abuse Professional (SAP) qualified in 49 CFR Part 40 requirements. For employment offers that are contingent upon a negative drug test result, it is considered a refusal if an applicant fails to undergo a MRO directed medical examination.

Any individual who has previously either failed or refused a UDDOT required pre-employment test must provide evidence of successfully completing a SAP referral and evaluation, and treatment plan compliant with the requirements in 49 CFR Parts 40 and 655 prior to further consideration for employment. The cost for the assessment and any subsequent treatment will be the sole responsibility of the individual. **If the drug screen test is canceled by the MRO, the applicant must retake and pass the drug screen test before being hired.**

6.3 Reasonable Suspicion Testing

All safety-sensitive employees may be subject to urine and/or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made based on documented contemporaneous and articulable observations consistent with substance abuse and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors trained to detect the signs and symptoms of drug abuse and alcohol misuse and conclude that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. Alcohol testing will be conducted just before, during or immediately after performing a safety-sensitive function.

Examples of reasonable suspicion include, but are not limited to, the following:

- 1. Physical signs and symptoms consistent with prohibited substance use or alcohol misuse which includes specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of an employee.**
- 2. Evidence of the manufacture, distribution, dispensing, possession or use of controlled substances, drugs, alcohol or other prohibited substance.**
- 3. Fights (to mean physical contact), assaults and flagrant disregard or violations of established safety, security or other operation procedures.**

6.4 Post-Accident Testing

All safety-sensitive employees will be required to undergo urine drug and breath alcohol testing if they are involved in an accident with an **Company Name** vehicle (regardless of whether or not the vehicle is in revenue service) that results in a fatality. This includes any surviving safety-sensitive employee that was operating the vehicle and any other employee whose performance could have contributed to the accident.

In addition, post-accident drug and alcohol testing will be conducted if

- An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or**
- Any vehicle involved sustains disabling damage requiring a tow away from the scene.**

For non-fatal accidents, drug and alcohol testing will be conducted on all covered employees operating the mass transit vehicle unless their performance can be completely discounted as a contributing factor based on the best information available at the time of the decision, and all other covered employees whose performance could have contributed to the accident, as determined by **Company Name** using the best information available at the time of the decision to test.

Following an accident, a safety-sensitive employee must remain readily accessible for testing. The employee will be tested as soon as possible, but not to exceed eight hours for alcohol testing and 32 hours for drug testing. Any safety sensitive employee involved in an accident must refrain from consuming alcohol for eight hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first. Any safety-sensitive employee who leaves the scene of the accident without justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test and their employment terminated. Employees tested under this provision will include any covered employee whose performance could have contributed to the accident.

Accident testing is stayed while employee assists in the resolution of the accident or receives medical attention following the accident.

Company Name will make every effort to complete breath alcohol testing within 2 hours of the accident. If alcohol testing cannot be completed within 2 hours, a report must be maintained that documents the reason for the testing delay. If alcohol testing cannot be accomplished within 8 hours of the accident, all attempts to obtain a specimen must cease and the documentation on the testing delay must be updated.

If the decision was made not to test, that decision must be documented and filed with the accident history.

6.5 Random Testing

Employees in safety-sensitive positions will be subject to random, unannounced, unpredictable and immediate drug and alcohol testing. The selection of safety-sensitive employees for random drug and alcohol testing will be made using a scientifically valid method that ensures that each covered employee has an equal chance of being selected for testing each time selections are made with no influence from operations or management. Random drug testing will be conducted throughout the calendar year and at all times of the day when safety-sensitive functions are performed. Random drug tests can be conducted at any time while an employee is on duty. Once an employee is notified of their selection for random testing, he/she must proceed to the testing site immediately. Random alcohol testing will be conducted just before, during or immediately after performing a safety-sensitive function. At a minimum, **Company Name** will test at the current FTA established rates set forth in 49 CFR Part 40 and 49 CFR Part 655, as amended. A copy of 49 CFR Part 40 is available from the DER upon request

Company Name retains the right to select the appropriate testing rate for applicable employees, up to one hundred percent(100%), as required by FTA.

6.6 Return-to-Duty Testing

All safety-sensitive and non-safety-sensitive employees who previously voluntarily entered into a Rehabilitation Program as set forth in Paragraph 5.5 must test negative on a drug or alcohol test (below 0.02 for alcohol) on a return-to-duty test and be evaluated and released to duty by the Substance Abuse Professional before returning to work. Testing in this section is conducted by **Company Name** authority using non-UDDOT testing forms.

6.7 Follow-Up Testing

Safety-sensitive and non-safety-sensitive employees who previously voluntarily entered into a prescribed rehabilitation program will be required to undergo frequent, unannounced urine and/or breath testing following their return to duty. The follow-up-testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. Testing in this section is conducted by **Company Name** authority using non-UDDOT testing forms.

6.8 Dilute Negative Policy

A dilute specimen is a specimen with creatinine and specific gravity values that are lower than expected for human urine. As permitted in 49 CFR 40.197, the **Company Name** will not perform a second test on any applicant/employee with a dilute negative drug test result, unless directed to do so by the Medical Review Officer. If the employee declines to take the second observed drug test as directed, it will be considered a test refusal and the results will become the test of record. Should the second test result in a negative dilute the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.

6.9 Information Disclosure

1. **Company Name** shall release information regarding a covered employee's record as directed by specific, written consent from the employee authorizing release of the information to an identified person.
2. A covered employee is entitled, upon written request, to obtain copies of any records pertaining to his/her use of prohibited substances, including any records pertaining to test results.
3. **Company Name** may disclose information that is required to be maintained to the decision maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the employee tested.
4. When requested by the National Transportation Safety Board as part of an accident investigation, **Company Name** shall disclose information related to its administration of drug and alcohol tests following the accident investigation.
5. Records shall be made available to subsequent employers upon receipt of written request from the covered employee.
6. **Company Name** shall disclose data for its drug and alcohol testing program and any other information pertaining to its anti-drug program, when requested by the Secretary of Transportation or any UDDOT agency with regulatory authority over **Company Name**.

7. To be considered for employment, all applicants will be asked to give consent to **Company Name** for a background check of the applicant's previous UDDOT covered employer over the past two years. The information requested will include:
 - (1) Alcohol test results of 0.04 or higher alcohol concentration.
 - (2) Verified positive drug tests.
 - (3) Refusals to be tested (including verified adulterated or substituted drug test results).
 - (4) Other violations of UDDOT agency drug and alcohol testing regulations.
 - (5) With respect to any employee who violated a UDDOT drug and alcohol regulation, documentation of the employee's successful completion of UDDOT return-to-duty requirements (including follow-up tests).
 - (6) Employers shall disclose to State Commercial driver licensing (CDL) authorities the drug and alcohol violations of employees who hold CDLs and operate commercial motor vehicles (CMVs).

7.0 EMPLOYMENT ASSESSMENT

Any safety-sensitive employee who tests positive for the presence of illegal drugs and/or alcohol above the minimum thresholds set forth in 49 CFR Part 40 and 49 CFR Part 655, as amended, will be referred for evaluation by a Substance Abuse Professional (SAP) qualified in the 49 CFR Part 40 and 49 CFR Part 655 requirements. A SAP is a licensed or certified physician, psychologist, social worker, employee assistance professional or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders. The SAP will evaluate each employee to determine what assistance (treatment and/or education) the employee needs in resolving problems associated with prohibited drug use or alcohol misuse. Any cost of treatment will be paid solely by the employee.

All employees who test positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth above will be terminated immediately.

Employees who voluntarily submit to rehabilitation program prior to testing positive on a drug or alcohol test will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program. The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider.

8.0 RE-ENTRY CONTRACTS

Employees who re-enter the workforce after voluntarily submitting to a rehabilitation program prior to testing positive on a drug or alcohol test must agree to a re-entry contract. That contract may include (but is not limited to);

1. A release to work statement from the Substance Abuse Professional.
2. A negative test for drugs and/or alcohol.
3. An agreement to unannounced frequent follow-up testing for a period of one to five years with at least six tests performed the first year.
4. A statement of work-related behaviors.

5. An agreement to follow specified after care requirements with the understanding that violation of the re-entry contract is grounds for termination.

9.0 EMPLOYEE AND SUPERVISOR TRAINING

All safety sensitive employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use in personal health, safety, and the work environment. The training must also include manifestations and behavioral cues that may indicate prohibited drug use.

Supervisors will also receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

Information on the signs, symptoms, health effects and consequences of alcohol misuse is presented in Attachment C of this policy.

10.0 SYSTEM CONTACT

Any questions regarding this policy or any other aspect of the drug free and alcohol free transit program should contact the following transit system representatives:

Drug and Alcohol Program Manager (DAPM) or Designated Employer Representative (DER):

Name:

Title:

Address:

Phone:

Fax:

Email:

Consortium/Third Party Administrator:

Name:

Address:

Phone

Fax:

Drug Testing Lab:

Name:

Address:

Phone

Fax:

Medical Review Officers (MRO):

Name:
Address:
Phone
Fax:

Employee Assistance Program (EAP)

Provider:

Substance Abuse Professional (SAP):

Name:
Address:
Phone:

11.0 FUTURE CHANGES OR MODIFICATIONS

Company Name, at the direction of the North Dakota Department of Transportation, will update this drug and alcohol policy to reflect all regulatory modifications, clarifications, and Federal Transit Administration (FTA) interpretations that are relevant to our company. In addition, the **Company Name** reserves the right to change the provisions of this policy and testing program in the future. Employees will be notified in writing of any change(s) pertinent to this policy.

12.0 FORMAL APPROVAL OF POLICY

This Drug and Alcohol Policy has been approved by the **Company Name** Board of Directors and will be strictly adhered to.

Board of Directors
Company Name

Date of Approval

Attachment A

COVERED POSITIONS BY JOB TITLES

Safety-Sensitive Functions

List all job titles here.

Driver

Dispatcher

Director

Attachment B

List of some of the medications identified by the National Transportation Safety Board and Federal Transit Administration as medications of concern. This list is not definitive.

- Analgesics: Aspirin with codeine, Codeine, Darvocet, Darvon, Demerol, Dilaudid, Empirim Compound with codeine, Levo-Dromoran, Methadone, Morphine, Percocet, Perodan, Soma Compound with codeine, Talacet, Talwin, Tylenol with codeine, and Vicodin
- Anti-Motion Sickness: Antivert, Dramamine, Marezine, Phenergan, Transderm-Scop
- Tranquilizers and Sedatives: Ativan, Denadryl, Centrax, Compazine, Dalmane, Diazepam, Equani, Halcion, Haldol, Libritabs, Librium, Limbitrol, Paxipam, Phenergan, Prolixin, Serax, Stelazine, Thorazine, Tranxene, Valium, Vlarelease, Xanax
- Antidepressants: Adapin, Amitriptyline, Asendin, Deprol, Desyrel, Elavil, Endep, Etrafon, Limbitrol, Lithium, Ludiomil, Marplan, Nardil, Norpramin, Pamelor, Parnate, Petrofrane, Sinequan, Surmontil, Tofranil, Triavil, Vivactil
- *Barbiturates: Alurate, Buttisol, Dilantin, Medaral, Nembutal, Pentobartital, Phenobarbital, Secobarbital, Seconal, Sedapap, Tuinal*
- *Skeletal Muscle Relaxants: Flexeril, Parafon, Soma*
- *Non-Prescription Cough & Cold Remedies, Antihistamines: Bendadryl, Bromfed, Chlortrimetron, Comtrex, Contac, Deconamine, Dimetapp, Dristan, Drixoral, Externdryl, Fedahist, Kronofed, Naldecon, Nolamin, Novafed, Ornade, Phenergan, Rondec, Ryantan, Sinubid, Sinulin, Tavist-D*

Alcohol Fact Sheet

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

Signs and Symptoms of Use

- Dulled mental process
- Lack of coordination
- Odor of alcohol on breath
- Possible constricted pupils
- Sleepy or stuporous condition
- Slowed reaction rate
- Slurred speech

(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

Health Effects

The chronic consumption of alcohol (average of three servings per day of beer [12 ounces], whiskey [1 ounce], or wine [6 ounce glass]) over time may result in the following health hazards:

- Decreased sexual functioning
- Dependency (up to 10 percent of all people who drink alcohol become physically and/or mentally dependant on alcohol and can be termed “alcoholic”)
- Fatal liver diseases
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast and malignant melanoma
- Kidney disease
- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Ulcers
- Birth defects (up to 54 percent of all birth defects are alcohol related)

Social Issues

- Two-Thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.

- Two-thirds of all Americans will be involved in an alcohol-related vehicular collision during their lifetimes.
- The rate of separation and divorce in families with alcohol dependency problem is 7 times the average.
- Forty percent of family court cases are alcohol problem related.
- Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
- More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.

The Annual Toll

- 24,000 people will die on the highway due to the legally impaired driver
- 12,000 more will die on the highway due to the alcohol-affected driver
- 15,800 will die in non-highway collisions
- 30,000 will die due to alcohol-caused liver disease
- 10,000 will die due to alcohol-induced brain disease or suicide
- Up to another 125,000 will die due to alcohol-related conditions or accidents

Workplace Issues

- It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
- A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.

ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledgment receipt of a copy of the revised **Company Name** Drug and Alcohol Policy with a revision date of **Date**.

I understand that I am responsible to read this policy and in consideration of my employment with the **Company Name**, I hereby agree to comply with the policy in all respects and consent to the alcohol and drug testing required by the substance abuse program policy.

Employee's Name: (Printed) _____ Employee's ID Number: _____

Position/Job Title: _____

Your signature below certifies that you, the employee, have received a copy of the policy.

Please fill out, sign, and return this receipt to your Substance Abuse Program Manager, Designated Employer Representative.

Contact the DER at **Phone Number** if you have any questions pertaining to the policy or receipt.

Signature of employee: _____ Date: _____

Definitions

Adulterated specimen. A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Confirmatory drug test. A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite.

Initial drug test (also known as a “Screening drug test”). The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial specimen validity test. The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid.

Invalid drug test. The result reported by an HHS-certified laboratory in accordance with the criteria established by HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

Laboratory. Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by UDDOT under this part.

Limit of Detection (LOD). The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated. *Limit of Quantitation.* For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

Negative result. The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

Positive result. The result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.

Reconfirmed. The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

Rejected for testing. The result reported by an HHS-certified laboratory when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that is not corrected.

Split specimen collection. A collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Drug and Alcohol Policy Requirements Checklist

Designated contact person, and board adoption

- Identity of person, office, branch, and/or position
- Proof of policy adoption by Local Governing Board or Other Authorized Official

Covered Employees

- Operation of a revenue service vehicle, in or out of revenue service
- Operation of a non-revenue vehicle requiring a CDL
- Controlling movement or dispatch of a revenue service vehicle (determined by employer)
- Maintenance of a revenue service vehicle
- Security personnel who carry firearms
- Covered job titles listed in policy

Prohibited Substances 49CFR Part 40 including but not limited to:

- Marijuana
- Cocaine
- Amphetamines
- Phencyclidine
- Opiates- 6-AM (6-Acetylmorphines) which is a Heroin marker
- MDMA (Ecstasy)
- MDA
- MDEA
- Alcohol

Prohibited behavior

- Drug use at all times
- Performing a SS function with an alcohol concentration of 0.04 or greater
- Alcohol use 4 hours prior, on call, while performing SS duty
- Alcohol use 8 hours after accident or until PA test

Period of Coverage

- Drug test – any time while on duty (random)
- Alcohol test – Just before, during, or immediately after performance of a safety-sensitive function (random and reasonable suspicion only)

Pre-employment

- Negative test before 1st SS duty, must make up if cancelled
- Not SS for 90-days and out of pool need pre-employment test
- Applicant who failed/refused a previous pre-employment drug test must show evidence of successful completion of treatment
- If alcohol test, must follow Part 40 regulations

Reasonable suspicion

- Trained supervisor
- Physical behavior, performance, contemporaneous observation

Post-accident

- Fatality
- Medical treatment away from scene, unless driver discounted
- Disabling damage, unless driver discounted
- Rail car, trolley car, trolley bus, or vessel is removed from service, unless driver discounted

- Operator and any other covered employee who may have contributed
- Drug test within 32 hours
- Alcohol within 8 hours
- No alcohol test 2 hours, create note; no alcohol test 8 hours, update note
- Readily available, or refusal to test
- Readily available stayed for resolution and medical treatment

Return-to-duty and Follow-up

- Conducted in accordance with Part 40, subpart O

Random

- Scientifically valid selection method
- Testing is conducted on all days and hours throughout the year Unannounced and immediate
- Equal chance of selection (no discretion by management or operations)

Testing Methods

- It is only necessary to reference Part 40, but if referenced, copies must be available for employees

Test Requirement

- All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with Part 655

Test Refusal

- Refers to Part 40 or 40.191 and 40.261, as amended

OR must list all:

- Fail to appear within a reasonable time - *defined by employer*
- Fail to remain at site until test is complete
- Fail to provide adequate breath or urine sample
- Fail to provide sufficient volume without valid medical explanation
- Fail to undergo a medical examination when required by MRO or DER
- Fail to cooperate with any part of the testing process
- Fail to permit an observed or monitored collection when required (drug only)
- Fail to take a second test when required (drug only)
- For an observed collection, fail to permit the observer to determine if a prosthetic or other device is possessed or worn (drug only)
- Possess or wear a prosthetic or other device (drug only)
- Admit to the collector an adulterated or substituted specimen (drug only)
- Provide a verified adulterated or substituted test (drug only)
- Fail to sign Step 2 of alcohol test form (alcohol only)
- For pre-employment, NOT refusal: Fail to appear
- For pre-employment, NOT refusal: Fail to remain at site prior to commencement of test
- For pre-employment, NOT refusal: Fail to undergo medical examination if no contingent offer of employment (not in audit questions)
- No claim that refusal to take a company test is a refusal to UDDOT test

Consequences

- Positive drug or alcohol (above 0.04) test result or test refusal
- BAC (0.02 to 0.039)

- Dilute negative
- Immediate remove employee from safety-sensitive position
- Refer for assessment by a Substance Abuse Professional
- Apply transit system disciplinary policy
- All employees/applicants must be given valid contact information for a USDOT-qualified SAP if they test positive.

Additional Employer Provisions Allowed

- Must be identified
- The provisions of the Drug Free Workplace Act of 1988 may be incorporated in the policy statement but must be so identified

Compliance Tips

- Effective date of policy-normally found on cover of policy
- Policy distribution -Employees should be requested to sign a confirmation of receipt form
- Make sure future revisions of a substantive nature also receive Board approval
- Make sure all employees have the most current version of the policy
- Clearly differentiate between FTA and company authority

CONSOLIDATED APPLICATION FOR FEDERAL TRANSIT ADMINISTRATION GRANT FUNDING: SECTIONS 5309, 5310 and 5311

North Dakota Department of Transportation, Local Government Division
608 East Boulevard, Bismarck, ND 58505-0700 • (701) 328-2194 • dottransit@nd.gov

PLEASE NOTE: Some checklist items are read-only (no additional information required).

CHECKLIST

- I. General Information
- II. Description of Transit Project
- III. Project Justification
- IV. Project Budgets
 - A. Operating Budget
 - B. Capital Budget
 - C. Administrative Budget
 - D. Revenue Sources
- V. Assurances
 - A. Fiscal and Reporting Assurances
 - B. Civil Rights and Minority Business Provisions
 - C. Charter and School Bus Protection Provisions
- VI. Eligibility for Federal Assistance/Debarment and Suspension
- VII. Labor Protection Provisions
- VIII. Environmental Assessment
- IX. OMB Circular A-95 Clearance
- X. Public Hearing
- XI. Special Efforts to Provide for the Disabled
- XII. Private Sector Participation
- XIII. Coordination of Service
- XIV. Restrictions on Lobbying
- XV. Local Civil Rights Assurances**
- XVI. Verifications & Certifications**
- XVII. Authorizing Resolution
- XX. Letters of Support
- XIX. Resolution of Support
- ATTACHMENT A – 13-C Labor-Protection Warranty
- ATTACHMENT B
 - 1. Transit Project Certificate
 - 2. Articles of Incorporation

* Authorized Signature Required *

* Authorized Signature Required *

CONSOLIDATED APPLICATION FOR FEDERAL TRANSIT ADMINISTRATION GRANT FUNDING: SECTIONS 5309, 5310 AND 5311

For rural and intercity providers
North Dakota Department of Transportation, Local Government Division
608 East Boulevard, Bismarck, ND 58505-0700 • (701) 328-2194

• Request for Funding Period July 1, 20__, to June 30, 20__.

I. GENERAL INFORMATION

- Legal name of applicant (transit project): _____
- Address (Street, City, and Zip Code): _____
- Phone number: _____
- Contact Person: _____
- Email Address: _____
- Type of Project:
Public body _____ Private, nonprofit organization _____ Indian Tribe or Council _____
Other (please specify): _____

• Grant Funding Requested:

Funding Type	Amount Requested (Federal \$\$ Only)	Match Ratio
Operating		50% federal /50% local match
Capital—Discretionary		80% federal/20% local match
Capital—Rolling Stock and Facility Construction/Renovation		80% federal/20% local match
Administrative		80% federal/20% local match
TOTAL FUNDING REQUESTED:		

Funding Summary	
Revenue Sources as shown in grant application	+
Operating Budget as shown in grant application	-
Administrative Budget as shown in grant application	-
Capital Budget as shown in grant application	-
Capital Budget for Rolling Stock as shown in grant application	-
Net Budget Deficit	=

II. DESCRIPTION OF TRANSIT PROJECT

- Geographic area served (cities, counties, townships, etc.): _____
- Type(s) of Service Provided:
Demand Responsive (dial-a-ride) _____ Fixed-Route: _____
Other (please specify): _____
- Estimate the number of trips you provide with this service PER YEAR:
General Public/Other _____ Elderly _____ Disabled _____ Total annual one-way trips: _____
- Estimate the number of total clients within the following groups:
Black _____ Asian or Pacific Islander _____ American Indian or Alaskan Native _____ Hispanic _____

• NOTE: Each item preceded by a bullet (•) requires entry of information or attachment of information to this form.

• Indicate the number of employees in your transit operation by job function/title:

Job Function/Title	Full-Time	Part-Time	Job Function/Title	Full-Time	Part-Time
Director			Dispatcher(s)		
Assistant Director			Driver(s)		
Coordinator			Bus Maintenance		
Bookkeeper			Custodian(s)		
Secretary			Other (specify)		

• Provide your transit project's service route(s) and schedule(s), either below or attached behind this sheet on separate pages. If attached on separate pages, indicate below.

• **Coordination efforts.** In the table below, list all other agencies and/or organizations you have worked with this past year to coordinate transportation services and the services you have jointly worked to provide.

Agency(ies) or Organization(s)	Coordinated Effort

• **Other Transit Services.** In the table below, list all other known public and private transit and paratransit operators in your service area.

Transit Operator	Type(s) of Service Provided

• **Competition With Other Transit Services.** If your transit project competes with OR supplements service provided by a private operator, note the operator in the table below and explain why your service is essential.

Transit Operator	Justification for Competition

• How does your transit project serve:

1) The elderly:

2) Individuals with disabilities:

3) The general public:

• IV.B. Operating Budget

In the following table, list: 1) the operating budget for your transit project in the current 12-month project year; and 2) estimate the operating budget for the upcoming project year for which grant funding is being requested.

Source	Operating Budget for CURRENT Project Year	Operating Budget for NEXT Project Year
Fuel and Oil		
Maintenance and Repairs		
Licenses		
Salaries (itemize below)		
Drivers		
Project Director		
Secretary		
Bookkeeper		
Fringe Benefits		
Other		
Vehicle Insurance		
Office Supplies		
Personnel Travel (NOT covered by RTAP)		
Advertising		
Rent		
Other (specify below)		
List the source(s) to be used for match		
In-Kind		
Lease Expenses		
TOTAL OPERATING EXPENSES:		

• **IV.C. Administrative Budget**

In the following table, list: 1) the administrative budget for your transit project in the current 12-month project year; and 2) estimate the administrative budget for the upcoming project year for which grant funding is being requested.

Source	Administrative Budget for CURRENT Project Year	Administrative Budget for NEXT Project Year
Salaries (itemize below)		
Project Director		
Secretary		
Bookkeeper		
Fringe Benefits		
Office Rent		
Utilities		
Advertising		
Training		
Personnel Travel (NOT covered by RTAP)		
Vehicle Insurance		
Other Insurance		
Office Supplies		
In-Kind		
Other (specify below)		
List the source(s) to be used for match		
TOTAL ADMINISTRATIVE EXPENSES:		

IV.D. Capital Budget

• Discretionary Capital

In the following table, list: 1) the discretionary capital budget for your transit project in the current 12-month project year; and 2) estimate the discretionary capital budget for the upcoming project year for which grant funding is being requested.

Source	Discretionary Capital Budget for CURRENT Project Year	Discretionary Capital Budget for NEXT Project Year
Vehicle-Related (specify below)		
List the source(s) to be used for match		
Office-Related (specify below)		
List the source(s) to be used for match		
TOTAL DISCRETIONARY CAPITAL EXPENSES:		

• Capital for Rolling Stock

In the following table, list rolling stock purchases you plan to make in the UPCOMING project year.

Vehicle Type (Bus or Van)	Accessible (Y or N)	Seating (Fixed + Wheelchair, include driver, i.e., 11+2)	Replacement or Expansion*	If Replacement, VIN# of vehicle to be replaced

* For EXPANSION vehicles, describe expansion service FOR EACH below.

V. ASSURANCES

Federal Section 5311 program guidelines require that any recipient of program funds must agree to the provisions presented hereunder. Your receipt of a Section 5311 assistance grant is contingent upon your willingness to comply with these assurances.

V. A. Fiscal and Reporting Assurances

The applicant hereby assures that it has sufficient funds available to meet the non-federal share of this project and has the fiscal and managerial capabilities to administer the program. Should this project involve the purchase of transportation service vehicles, it is guaranteed that local funds are available to effectively operate and maintain the equipment.

It is further assured that the applicant will comply with all program requirements set forth by the North Dakota Department of Transportation relative to program management and also the administrative requirements set forth by the FTA Section 5311 program guidelines.

V.B. Civil Rights and Minority Business Provisions

The applicant hereby ensures that this program will be administered in such a manner as to assure that no persons or minority business enterprises will, on the grounds of race, color, sex or national origin, be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under this program.

It is further ensured that this project will pay particular attention to the existence, composition, and distribution of minority population groups, including minority business enterprises, in the project area and that the rationale for providing transportation in the project area will be such that service to these groups will reflect affirmative compliance with Title VI of the Civil Rights Act of 1964.

V.C. Charter and School Bus Protection Provisions

The applicant hereby agrees not to utilize Section 5311 funds to engage in charter bus operations in competition with private bus operations outside the area within which it normally provides regularly scheduled transportation services.

The applicant further agrees not to engage in school bus operations, exclusively for the transportation of students and school personnel, in competition with private bus operators except in the following areas:

- a. The applicant operates a school system in the area to be served and operates a separate and exclusive school bus program for this school system.
- b. Private school bus operators are not able to provide adequate transportation at reasonable rates and in conformance with applicable safety standards.

Any violations of these provisions may prohibit the applicant from receiving further financial assistance under this or other federal programs.

VI. ELIGIBILITY FOR FEDERAL ASSISTANCE/DEBARMENT AND SUSPENSION

The applicant is advised that the signature on this application certifies that the company, organization, or any person associated therewith is not currently under suspension, disbarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

VII. LABOR PROTECTION PROVISIONS

The labor protection warranty (Section 13[©] Warranty) is attached to and considered a part of this assurance section and grant proposal. The warranty is required by the U.S. Departments of Labor and Transportation. The applicant hereby acknowledges that, by the issuance of these assurances, it accepts full responsibility for the protection of labor as described in the attached warranty.

VIII. ENVIRONMENTAL ASSESSMENT

An environmental assessment of this project has not been undertaken. It is believed that this project will not be considered a "categorical exclusion" by FTA standards. It is, however, requested that the NDDOT conduct an environmental review of this project to ensure compliance. The applicant agrees to assist and cooperate with the NDDOT in this assessment effort as needed.

IX. OMB CIRCULAR A-95 CLEARANCE

A-95 review and concurrence with this application has not been sought. It is hereby requested that the NDDOT seek A-95 approval for this project should it be selected for funding. Applicant assistance will be extended by the NDDOT to aid it in the A-95 review process as needed.

X. PUBLIC HEARING

It is recognized that, should this project be given preliminary approval for capital funding, it may be necessary to hold a public hearing to gain citizen input on the proposal. Should this project be selected for funding, it is hereby assured that the applicant will cooperate with the NDDOT in holding, or offer to hold, a public hearing, as may be appropriate.

XI. SPECIAL EFFORTS TO PROVIDE FOR THE DISABLED

The applicant thereby certifies that special efforts are being made in its service area to provide transportation that disabled persons, including wheelchair users and semi-ambulatory persons, can use. For recipients of funds under Section 5311 of the Urban Mass Transportation Act of 1964, as amended, the transportation resulting from these special efforts is to be reasonable in comparison to the transportation provided to the area's general public and meet a significant fraction of the actual transportation needs of disabled persons within a reasonable time.

XII. PRIVATE SECTOR PARTICIPATION

The applicant assures that private transit operators and paratransit operators in the proposed service area have been afforded a fair and timely opportunity to participate to the maximum extent feasible in the provision of the applicant's proposed transportation service.

XIII. COORDINATION OF SERVICE

The applicant also assures that it has demonstrated acceptable efforts to achieve coordination with other transportation providers and users in the proposed service area, including social service agencies capable of purchasing service.

XIV. RESTRICTIONS ON LOBBYING

Federal financial assistance 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. The state, subrecipients, and third-party contractors at any tier 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). 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 USC § 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.

• XV. LOCAL CIVIL RIGHTS ASSURANCES

The _____ (Applicant/Recipient) hereby certifies, as a condition to receiving
(Legal Name of Agency or Organization)
Federal Transit Administration Section 5310 grant assistance, that:

1. No person shall, on the grounds of race, color, creed, national origin, sex, age, or disability, be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program, or activity for which this recipient receives Federal financial assistance from the Federal Transit Administration.
2. The Applicant/Recipient shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, and shall take affirmative action to ensure that applicants are employed, and *that employees are treated during employment, without regard to their race, color religion, sex, or national origin.*
3. *The Applicant/Recipient will conduct any program or operate any facility that receives or benefits from Federal financial assistance administered by the United States Department of Transportation in compliance with requirements imposed by or pursuant to 49 CFR, Part 27, Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities Receiving or Benefitting from Federal Financial Assistance.*
4. *The Applicant/Recipient hereby gives assurance that no qualified person shall, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, including discrimination in employment, under any program or activity that receives or benefits from Federal financial assistance provided by the United States Department of Transportation. The Applicant/Recipient further assures that its programs will be conducted, and its facilities operated, in compliance with all the requirements imposed by or pursuant to 49 CFR Part 27.*

Signature of Authorized Officer

Date

Printed/Typed Name of Officer

Title

• **XVI. VERIFICATIONS & CERTIFICATIONS**

A. Verification

I am an officer of the applicant organization herein and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge.

I declare that the foregoing is true and correct.

B. Fiscal and Managerial Capability Certification

I certify that, based on my experience with the applicant organization and a review of the organization records, that the organization has the requisite fiscal and managerial capability to carry out the project.

C. Vehicle Maintenance Certification

The applicant organization, should it be chosen as a recipient of federal grant funds, hereby certifies that all vehicles and equipment purchased with federal funds will be maintained in accordance with the policies and procedures of the transit project, in accordance with the NDDOT State Management Plan.

D. Changes to This Application

The applicant organization accepts all requirements as set forth in this application as it was received by the applicant and is on file in the offices of the NDDOT. Any changes made to this application—other than to provide the information requested—will not alter the terms set forth within.

Authorized Signature

Date

Title

• **XVII. AUTHORIZING RESOLUTION**

Each organization that applies for federal grant assistance must include a formal authorization from its governing body when submitting its application. When preparing the language for an authorizing resolution, applicants should note the following:

- A single resolution may be used to authorize the filing of more than one application. However, the resolution should clearly indicate the specific application(s) for which filing is being authorized.
- More than one individual may be designated by the authorization to file the application and execute other documents. Only the designated individual(s) should sign the application form and other documents relating to the application and its resulting grant.
- At a minimum, authorizing resolutions must address item numbers 1 and 2 on the example provided.
- Each authorizing resolution must be signed and certified in an appropriate manner, such as that suggested in the attached format.

A sample resolution appears on the next page. This sample, or the resolution form of the applicant's choice—that addresses, at a minimum, item numbers 1 and 2 on the sample provided—must be passed by the applicant's governing body and submitted with this application for federal aid.

NOTE: The "Governing Body of Applicant" blank is to be completed with the appropriate descriptive phrase, for example, Board of Directors, City Commission, Tribal Council, County Commission or other governing body responsible for providing authorization and direction to the transit project and its project administrator.

RESOLUTION NO. _____

Resolution authorizing the filing of applications for federal transit grant assistance provided by the Federal Transit Administration (FTA) and State Aid for Public Transit as provided for in the North Dakota Century Code.

WHEREAS, the U.S. Department of Transportation is authorized to make grants to states through the FTA to support capital projects and operating and administrative assistance for non-urbanized public transportation systems under various sections of the FTA Act of 1991 and subsequent acts and amendments; and

WHEREAS, the state of North Dakota provides State Aid for Public Transit per the North Dakota Century Code; and

WHEREAS, the North Dakota Department of Transportation has been designated by the Governor to administer the federal and state transit grant assistance in North Dakota; and

WHEREAS, federal and/or state contracts for financial assistance will impose certain obligations upon the applicant, including provision by it of the local share (match) for project costs;

NOW, THEREFORE, BE IT RESOLVED BY _____
(Governing Body of Applicant)

1. That _____ is authorized to execute and file
(Designated Official)

applications and contracts on behalf of _____ with the
(line out and initial above as needed) (Legal Name of Applicant)

North Dakota Department of Transportation to aid in the financing of capital projects and/or operating and/or administrative assistance pursuant to FTA transit grant assistance programs and/or State Aid for Public Transit.

2. That _____, _____ is
(Name of Authorized Representative) (Title)
authorized to furnish such additional information as NDDOT may require in connection with the application, contract and/or project.

CERTIFICATE

The undersigned duly qualified and acting _____ of the
(Title of Officer)

_____ certifies that the foregoing is a true and
(Legal Name of Applicant)
correct statement.

(Signature of Officer)

(Title of Officer)

(Date)

• XVIII. LETTERS OF SUPPORT

If available, attach letters of support received by your transportation project from area residents, public officials, public service agencies and/or other transportation service providers relative to your transportation project.

• XIX. RESOLUTION OF SUPPORT

The following is a SAMPLE resolution of support:

Date

Dear _____ :
(Your Organization's Name)

The _____ fully supports the application of
(Name of Private or other Operator)
_____ to the U.S. Department of Transportation for
capital assistance in purchasing vehicles and equipment to provide transportation service to the elderly and the
disabled in _____ .
(Service Area)

This special service is necessary to supplement our regularly scheduled transportation service because:

We will cooperate fully with your endeavors to meet the special transportation needs of the elderly and the disabled.

Sincerely,

(Signature of Private of other Operator)

Jarc or NF

Transit Provider Name:

Total grant amount requested:

Project Budget:

Total FTA Operating Assistance requested:

Total FTA Capital Assistance requested:

Total matching funds and sources:

Total Project Cost:

1. **Project Title:** (Do not exceed 60 characters, including spaces – for use on all summary listings):

2. **Project Sponsor** (Transit Provider and/or Lead Agency name & address):

3. **Contact Person** (for application questions):

Name & Title:

Email:

Phone No.:

Fax No.:

4. **JARC/NF Counties served in this application:**
Other counties served by this provider:

5. Please provide the following information: (reporting year is October 1 through September 30)

1. Number of one way trips provided to eligible individuals:

- A. Actual or estimated # JARC trips provided in current reporting year:
- B. # JARC trips expected in next reporting year:
- C. Actual or estimated # NF trips provided in current reporting year:
- D. # NF trips expected in next reporting year:

A.
B.
C.
D.

2. Actual or estimated number of jobs that can be accessed as a result of geographic or temporal coverage of JARC projects implemented in the current reporting year.

--

3. Yes or No For New Freedom projects: Is there an increase or enhancement related to geographic coverage, service quality, and/or service times that impact availability of transportation services for individuals with disabilities as a result of this project?

YES or NO (If yes, explain)

4. Yes or No For New Freedom projects: Are there additions or changes to environmental infrastructure (e.g., transportation facilities, sidewalks, etc) technology, and vehicles that impact availability of transportation services as result of this project.

YES or NO (If yes, explain)

Part I. General Project Information

1. **Project Description Summary** (Do not exceed 245 characters, including spaces – for use on all agenda items and reports):

2. **Project Description in Detail**

3. **Project Locations & Limits or Service Area**

4. **Project Management**

5. **Project Monitoring and Tracking System**

6. For new projects, provide an estimate the date services are expected to begin.

Part II. Project Financial Plan: *Attach a copy of the project financial plan to the application. Complete and attach the project budget for the project.*

- 1. Financial Commitments:** Document the sources of matching funds and the degree of commitment from each source for this project. Identify specific long-term financing sources to support continuation of the proposed project or other aspects of the regional plan, including continued transit, human service, and employer-provided financial resources.

2. Additional Information Required from Applicants Requesting Operating Funds

(include the period of performance)

Operating funds requested:

Date service is to begin:

Anticipated duration:

3. Additional Information Required from Applicants Requesting Capital Funding

List capital costs—such as purchase of vehicles and facilities—separately. For vehicles, include the type of vehicles and quantity of each type. Most vehicles will fit into the categories of; ADA minivan, Conversion van, 12+2 cutaway, or a specified # passenger bus. Please list # stalls to be in each facility requested.

Funding requested :

Service Area/Location:

Anticipated bid date:

stalls (if facility) :

If the vehicle is to be a replacement vehicle, please provide the following information:

(year make model):

(age, mileage) :

Vehicle Type (Bus or Van)	Accessibl e (Y or N)	Seating (Fixed + Wheelchair, include driver, i.e., 11+2)	Replacement or Expansion	If Replacement, VIN# of vehicle to be replaced

4. Additional Information Required from Applicants Requesting Continuation Funding

Project was previously funded under grant or amendment number(s):

amount of funds approved for this project in previous year(s):

Total

Total amount of funds (from all previous years) dispersed to date:

Brief

summary of what has been accomplished to date:

Are there new stops within 1.4 miles of employment, childcare, or employment training sites not previously accessible by transit?

Ridership on new transportation services provided since service initiated:

5. Total Project Expenses and Funding Request Summary

6. Extended Budget Descriptions (include detailed budget, expenses and income)

7. Local Match Requirement

CERTIFICATION:

NOTE: A person duly authorized to sign for the organization (city manager, general manager, executive director, or high ranking officer) must sign and certify application.

The applicant attests to the fact that the data submitted herein is true and accurate to the best of his/her knowledge. Approval of this application is in no way a guarantee of funding. Final funding approval is contingent upon submission to and approval by the Federal Transit Administration (FTA). Upon FTA approval the undersigned applicant will be required to enter into a Job Access Reverse Commute (JARC) Pass-through

Grant Agreement with NDDOT. Execution of the JARC Pass-through Agreement will attach additional Federal requirements the applicant will be responsible for meeting. Any funding encumbered **prior to** the execution of the JARC Pass-through Agreement **will not** be eligible for reimbursement.

Signature

Date

Title

Witness

Date

Co-Sponsors (if applicable):

Signature/Title

Date

Signature/Title

Date

PROJECT FUNDING APPLICATION FOR:

Job Access/Reverse Commute (JARC) Program
and
New Freedom Program

Application Deadline: _____

Applications in rural areas must be received at the North Dakota Community Action Association office at the address that appears below. Applications in urban areas must be received at the appropriate MPO/COG office on the deadline shown.

Postmarks will not be accepted. Applications received after the deadline will not be considered. Applications submitted to any other address will not be considered.

Submit Applications to: JARC/New Freedom
c/o NDCAA
3233 South University Drive
Fargo, ND 58104

Grant Award Announcement: _____

Questions:

Submit all questions and/or requests for clarification in writing to the above address or via email to _____

Job Access/Reverse Commute Program (Federal Transit Administration Section 5316)

The goal of the JARC program is to improve access to transportation services to employment and employment related activities

- for welfare recipients and eligible low-income individuals and
- to transport residents of urbanized areas and non urbanized areas to suburban areas to suburban employment opportunities, regardless of income.

Toward this goal, FTA provides financial assistance for transportation services planned designed, and carried out to meet these transportation needs. Local match of 20 percent is required for capital purchases and 50 percent for operating funding.

New Freedom Program (Federal Transit Administration Section 5317)

The New Freedom formula grant program aims to provide additional tools to overcome existing barriers facing Americans with Disabilities seeking integration into the workforce and full participation in society. Lack of adequate transportation is a primary barrier to work for individuals with disabilities. The New Freedom formula grant program seeks to

- reduce barriers to transportation services and
- expand the transportation mobility options available

to people with disabilities beyond the requirements of the ADA of 1990. Local match of 20 percent is required for capital purchases and 50 percent for operating funding.

Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance. Specifically, Title VI provides that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." (42 U.S.C. Section 2000d).

NOTE TO APPLICANT: Job Access Reverse Commute (JARC) and New Freedom projects must be submitted separately, **as individual applications**

- A complete application consists of two parts: I-General, and II-Financial.
- Two (2) copies are required of each complete application.
- **Do not** submit bound applications. (Please use one staple at the upper left-hand corner.)
- All questions must be answered.

Application Process

The North Dakota Department of Transportation (NDDOT) will conduct a statewide competitive selection process in cooperation with the state's Metropolitan Planning Organizations (MPOs) in urban areas and Regional Development/Planning Councils (RDCs) and Community Action Agencies (CAAs) in rural areas. To ensure that projects are derived from a local/regionally developed coordinated planning process or plan, NDDOT will require that all projects submitted to the state for funding must be solicited, reviewed, prioritized and approved by a MPO, RDC or CAA, or any combination thereof. Therefore, all applications to the state are to be submitted by a MPO, CAA, RDC, or existing transit agency.

For projects derived from an MPO, the application must certify that the projects for which funding is solicited will be included in the Transportation Improvement Program (TIP) selection/programming process.

NDDOT shall work with a panel of planning partners to review and rank projects. The selection committee shall make recommendations for award. The final decision ultimately rests with NDDOT administration. NDDOT may include representatives from entities such as those listed below to assist in this process:

- NDDOT Transit Section
- NDDOT Local Government Division
- Department of Commerce (Division of Community Services)
- Metropolitan Planning Organizations (MPOs)
- Department of Human Services (on behalf of seniors, disabled persons, and people using public assistance)
- Non-governmental representative (not-for-profit, etc.)

Each MPO/COG has selection and prioritization criteria. Contact your MPO/COG for details on the criteria in your area.

Selection Criteria

The following statewide evaluation and ranking criteria have been developed for use by selection panel to prioritize programs and activities requesting funding under Federal Transit Administration (FTA) Sections 5310, 5316, and 5317. Applications for funding will be ranked on the following criteria. A point-based formula will be developed and applied to the criteria.

- The project must demonstrate that it works to address one or more barrier/gap/deficiency identified in the grant program through a coordinated planning process (plan) and should aim to increase transportation options for target populations (as well as the public in general).

- The project is consistent with and prioritized by the locally regionally adopted coordinated transportation plan/process.
- As a project derived from a coordinated plan/process it should demonstrate the following characteristics:
 - Coordination with existing public transportation infrastructure
 - Coordination with private and non-profit transportation providers
 - Collaboration with social service providers, including non-profit service agencies
 - Coordination with employer(s)
- Project should not be limited by geography or service-area borders:
 - Emphasis should be aimed at providing transportation between all applicable types of locations the target audiences need to travel to and from throughout the region and/or metropolitan area. Eligible recipients of programs and activities should not be limited by where they live a region or metropolitan area.
- Applicants must demonstrate that the development of the project was based on solicitation of guidance and the input from a broad base of community stakeholders.
- Projects must demonstrate how they make use of and leverage existing resources, including coordination with other Federal programs. Funds should not be sought to supplement or replace existing funding dedicated to a service or program, unless the award will constitute expansion of service. Projects must establish a clear financial plan for the delivery of the activity or program:
 - Identify long term financing strategies (beyond Federal funding)
 - Identify financial commitments from human/social service providers
 - Identify financial commitment by existing transportation providers

Request for additional FTA funding

Section 5309, 5310, 5311, Jarc or NF

(Circle all eligible programs for funding request)

Transit Provider Name:

Total grant amount requested:

Project Budget:

Total FTA Operating Assistance requested:

Total FTA Capital Assistance requested:

Please answer and provide comments for EACH of the following questions.

7. What counties and/or cities does this application effect?

8. What population does this application effect: (i.e. elderly, disabled, poor, general public)

9. Yes or No: Is there an increase or enhancement related to expanded service area, additional route, or expanded service hours?

10. Yes or No: Is there an increase or enhancement related to geographic coverage, service quality, and/or service times that impact availability of transportation services for individuals with disabilities as a result of this project?

11. Yes or No: Are there additions or changes to environmental infrastructure (e.g., transportation facilities, sidewalks, etc), technology, or vehicles that impact availability of transportation services as result of this project.

12. Yes or No: Are there additional services to provide access to jobs?

13. Please provide additional information to be used during consideration and prioritization of funding:

8. Additional Information Required from Applicants Requesting Capital Funding

List capital costs separately. For vehicles, include the type of vehicles and quantity of each type. Most vehicles will fit into the categories of; ADA minivan, Conversion van, 12+2 cutaway, or a specified # passenger bus. Please provide the amount of funding requested, and the anticipated bid date,

If the vehicle is to be a replacement vehicle, please provide the following information the year make, model, age, and mileage

Vehicle Type (Bus or Van)	Accessible (Y or N)	Seating (Fixed + Wheelchair, include driver, i.e., 11+2)	Replacement or Expansion	If Replacement, VIN# of vehicle to be replaced

CERTIFICATION:

NOTE: A person duly authorized to sign for the organization (city manager, general manager, executive director, or high ranking officer) must sign and certify application.

The applicant attests to the fact that the data submitted herein is true and accurate to the best of his/her knowledge. Approval of this application is in no way a guarantee of funding. Final funding approval is contingent upon submission to and approval by the Federal Transit Administration (FTA). Upon FTA approval the undersigned applicant will be required to enter into a Grant Agreement with NDDOT. Execution of the Agreement will attach additional Federal requirements the applicant will be responsible for meeting. Any funding encumbered **prior to** the execution of the Agreement **will not** be eligible for reimbursement.

Signature

Date

Title

Witness

Date

Note: Requests for rural funding should be submitted to the NDDOT transit office. Requests for Urban funding should be submitted to the MPO/COG in your area.

**North Dakota Department of Transportation
SECTION 5311 TRANSIT GRANT AGREEMENT**

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.509,	CFDA Title: Formula Grants for Other than Urbanized Areas
Award Name: Formula Grants for Non-Urban Areas	Awarding Federal Agency: Federal Transit Administration
NDDOT Program Mgr.: Mr. Denny Johnson	Telephone: 701-328-2194

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and _____, a _____, hereinafter referred to as the Contractor, whose address is _____.

WHEREAS, Title 49 USC Chapter 53 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005, provides for capital improvement, operating assistance, and planning activity grants to the state’s existing and potential transportation providers for the purpose of assisting them in providing transportation services to the general public in nonurbanized areas of the state; and

WHEREAS, the Governor of North Dakota, in accordance with a request by the Federal Transit Administration (FTA), has designated NDDOT to evaluate and select the proposed projects; and

WHEREAS, the Contractor desires to provide for the transportation needs in nonurbanized areas of the state;

NOW, THEREFORE, IT IS AGREED:

I.

For the period of _____, through _____, the Contractor shall undertake and provide the transportation services as described in the project description (Attachment A) and the Contractor’s grant application, on file with NDDOT.

II.

Cost. NDDOT shall reimburse the Contractor for costs incurred while performing this service not to exceed \$_____, providing these costs are incurred in accordance and within the rates of participation, as indicated in Attachment A, and are allowable costs as determined under 48 CFR 31.2 or 48 CFR 31.6, and OMB Cir. A-87, as applicable. Requests for reimbursements can be submitted to NDDOT at the end of the month or quarter being reported. The final request for reimbursement must be submitted by close of business on the fifth (5th) business day following the termination date of this agreement.

III.

Property. All purchases, property management, and property disposition shall be made in accordance with 49 CFR 18 (Common Rule) dated 10-1-94, originally approved on 10-1-88, copies of which will be provided by NDDOT on request.

IV.

Assignments. The Contractor shall not assign nor transfer the Contractor's interests or duties under this agreement without the express written consent of the state.

V.

Records and Reports. The Contractor shall complete and submit all forms and reports as required by NDDOT. The Contractor shall maintain supportive documentation for all costs charged to the project(s) under this agreement. All accounting documents shall be clearly identified, readily accessible, and where possible, kept separate and apart from all other such documents. All project records and documents shall be made available to NDDOT and the federal government for inspection and audit during the agreement and for three years after the date of final payment, unless any litigation, claim, or audit is started before the expiration of the three years, in which case the records shall be retained until such action is satisfied.

VI.

Audit. The Contractor shall permit NDDOT, the comptroller general of the United States, and the secretary of the US Department of Transportation (USDOT) or their authorized representatives to inspect all vehicles, facilities, and equipment used by the Contractor as part of the project and all relevant project data and records. The Contractor shall also comply with OMB Cir. A-133.

VII.

Amendment. Any change in this agreement shall be in writing and agreed upon by both parties.

VIII.

Subcontracting. The Contractor shall not assign any portion of the work under this agreement, execute any contract, or obligate itself in any manner with a third party with respect to its rights and responsibilities to this agreement without written consent of NDDOT. Any agreement with a subcontractor does not create a contractual relationship between the NDDOT and the subcontractor.

IX.

Merger and Waiver. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The Contractor, by the signature below of its authorized representative, hereby acknowledges that the Contractor has read this agreement, understands it, and agrees to be bound by its terms and conditions.

X.

Civil Rights. The Contractor will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 STAT. 252), the regulations of the USDOT, 49 CFR 21, and Executive Order 11246, relative to the employment practices under any engineering contract awarded in conjunction

with this agreement. If the Contractor fails to comply with the federal or state civil rights requirements of this agreement, sanctions may be imposed by USDOT or NDDOT as may be appropriate, including, but not limited to:

- A. Withholding of payments to the Contractor under the agreement until the Contractor causes compliance, or
- B. Cancellation, termination, or suspension of the agreement, in whole or in part.

The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

XI.

Disadvantaged Business Enterprise. The Contractor will comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT- assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Contractor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT- assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Contractor of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et. seq.).

The Contractor will include the following paragraph verbatim in any subcontracts they sign relative to this project:

The Contractor or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT- 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 NDDOT deems appropriate.

XII.

Nondiscrimination – Compliance with Laws. The Contractor agrees to comply with all applicable laws and rules, including, but not limited to, those relating to nondiscrimination, accessibility, and civil rights.

XIII.

Drug and Alcohol Testing - The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of NDDOT or the NDDOT, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The Contractor agrees further to certify annually its compliance with Parts 653 and 654 before July 1 and to submit the Management Information System (MIS) reports before March 1 to NDDOT Transit Office, 608 East Boulevard, Bismarck ND. To certify compliance the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

XIV.

Equipment Use. The Contractor agrees that project equipment shall be used solely for providing transportation service in accordance with the project description. If any project equipment is not used in this manner or is withdrawn from service, the Contractor shall immediately notify NDDOT.

XV.

Charter Service Operations. The Contractor agrees to comply with 49 USC 5323(d) and CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be “incidental,” i.e., it must not interfere with or detract from the provision of mass transportation.

XVI.

School Transportation Operations. The recipient agrees that neither it nor any transit operator performing work in connection with the project will engage in school transportation operations exclusively for the transportation of students or school personnel in competition with private school transportation operators, except as qualified under specified exemptions permitted by 69 USC 5323(f) and FTA regulations, “School Bus Operations”, 49 CFR Part 605 and any amendments thereto that may be issued. Any school transportation agreement required by these regulations is incorporated by reference and made part of the grant agreement or cooperative agreement. When operating exclusive school bus service under an allowable exemption, federally funded equipment, vehicles, or facilities may not be used.

XVII.

Insurance. The Contractor shall maintain insurance coverage on the project equipment in an amount adequate to protect the fair market value of the equipment throughout the duration of this agreement.

XVIII.

Labor Protection. The Contractor stipulates he has read and agrees to abide by the provision of the labor protection warranty issued under Section 13C para. 1609 of the Transportation Act of 1964 and the National (Model) Agreement referenced therein.

XIX.

Buy America. (Applies only if purchase is over \$100,000.) The Contractor agrees to comply with 49 USC 5323(j) and 49 CFR Part 661, which provide that federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15-passenger vans and 15-passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 60 percent domestic content.

XX.

Energy Conservation. 42 USC 6321 and 49 CFR Part 18. The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

XXI.

Bus Testing. In the purchase of rolling stock the Contractor (manufacturer) agrees to comply with 49 USC 5323(c) and FTA’s implementing regulation at 49 CFR Part 665 and shall perform the bus testing requirements set forth therein.

XXII.

Pre-Award and Post-Delivery Audit Requirements. The Contractor agrees to comply with requirements of 49 USC 5323(m) and FTA regulations “Pre-Award and Post-Delivery Audits” of rolling stock purchases 49 CFR Part 663 and any revision thereto.

XXIII.

Byrd Anti-Lobbying Amendment, 31 USC 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 USC §1601, et. seq.] Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 40 CFR Part 20, “New Restrictions on Lobbying.” Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 USC 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-federal funds with respect to that federal contract, grant or award covered by 31 USC 1352. Such disclosures are forwarded from tier to tier up to NDDOT.

XXIV.

Federal Changes. Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the FTA Master Agreement between purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor’s failure to so comply shall constitute a material breach of this contract.

XXV.

Clean Air. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §§7401 et. seq. The Contractor agrees to report each violation to the purchaser and understands and agrees that the purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

XXVI.

Clean Water. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §§1251 et. seq. The Contractor agrees to report each violation to the purchaser and understands and agrees that the purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

XXVII.

Program Fraud and False or Fraudulent Statements or Related Acts. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC §§3801 et. seq. and USDOT regulations, “Program Fraud Civil Remedies,” 49 CFR Part 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the

Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

XXVIII.

Contracts Involving Federal Privacy Act Requirements. The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 USC §552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

XXIX.

Disputes. 49 CFR Part 18, FTA Cir. 4220.1E, disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of NDDOT Director. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Director. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Director shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by NDDOT, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

XXX.

Eligibility of Contractor. (Applicable only if contract is over \$100,000.) The Contractor is advised that the signature on this contract or agreement certifies that the company or any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligible by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted,

convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

XXXI.

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

The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the Contractor certifies as follows:

The certification in this clause is a material representation of fact relied upon by NDDOT. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to NDDOT, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

XXXII.

Davis-Bacon And Copeland Anti-Kickback Acts. The Contractor agrees to comply with the requirements of 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i)(5) for any construction contract over \$2,000. 40 USC 3142(a), 29 CFR 5.5(a). 'Construction,' for purposes of the Acts, includes "actual construction, alteration and/or repair, including painting and decorating."

XXXIII.

Transit Employee Protective Provisions. The Contractor agrees to comply with applicable transit employee protective requirements as follows:

(a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor

to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

(c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

the Contractor also agrees to include any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

XXXIV.

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any NDDOT requests which would cause NDDOT to be in violation of the FTA terms and conditions.

xxxv.

Recycled Products. The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

XXXVI.

Drug and Alcohol Testing. The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of (name of State), or the (insert name of grantee), to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The Contractor agrees further to certify annually its compliance with Parts 653 and 654 before (insert date) and to submit the Management Information System (MIS) reports before (insert date before March 15) to (insert title and address of person responsible for receiving information). To certify compliance the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

XXXVII.

Termination. NDDOT reserves the right, with or without cause, to terminate this agreement by written notice. In the event of termination without cause, NDDOT will reimburse the Contractor for costs incurred prior to the termination date without further liability.

XXXVIII.

No Obligation by the Federal Government. The purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the Subcontractor who will be subject to its provisions.

XXXIX.

Risk Management. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

EXECUTED the date last below signed.

WITNESS:

NAME (TYPE OR PRINT)

SIGNATURE

CONTRACTOR:

NAME (TYPE OR PRINT)

SIGNATURE

TITLE

DATE

WITNESS:

NAME (TYPE OR PRINT)

SIGNATURE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

APPROVED as to substance by:

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

SIGNATURE

DATE

DOT 17047 (Div. 38)
A.G. Approved 7-17-89; 3-08