KY STATE MANAGEMENT PLAN

SECTION 5311

Formula Grants for Rural Areas

SECTION 5310

Enhanced Mobility of Seniors and Individuals with Disabilities

FINAL

MAP-21

Kentucky Transportation Cabinet (KYTC)
OFFICE OF TRANSPORTATION DELIVERY OTD)

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INTRODUCTION

The Kentucky State Management Plan (SMP) is a document that describes the Kentucky Transportation Cabinet, Office of Transportation Delivery's (OTD) policies and procedures for administering the State-managed portions of the Federal Transit Administration's (FTA) §5309 §5310, §5311, §5311(b)(3), §5311(f), §5305 -§5307 and **5339** programs, where applicable. State requirements in the SMP may be more restrictive, but not less restrictive than Federal requirements. If any portion or requirements of the SMP inadvertently appears to be less restrictive than Federal requirements or regulations, Federal Transit Administration rules still apply. Even when not stated, "as amended" in the SMP when referring to Federal Transit Administration Circulars, Federal regulations or law, or Federal guidance, the most recent version of the document will apply.

Stakeholders may, in writing, comment on the proposed SMP, as well as any given time on the Final FTA approved SMP. However, once FTA approves the SMP, hard copies of the final document will be distributed to transit agencies and at any other stakeholder's request. The approved SMP shall also be posted as Final on the Kentucky Transit Association ("KPTA") website www.kypublictransit.org as well as the Kentucky Transportation Cabinet, Office of Transportation Delivery website. http://transportation.ky.gov/Transportation-Delivery/Pages/default.aspx

The address for Office of Transportation Delivery:
Kentucky Transportation Cabinet
200 Mero Street
Frankfort, KY 40622
The SMP is submitted to FTA for approval in an electronic format.

Chapter I: General Transit Program Information

Roles and Responsibilities

Federal Transit Administration (FTA)

The FTA Headquarters Office is responsible for: providing overall policy and program guidance; apportioning funds annually to the states; developing and implementing financial management procedures; initiating and managing program support activities; and conducting national program review and evaluation.

Federal Transit Administration Regional Office

The FTA Regional offices have the day-to-day responsibility for administration of the program. Regional office activities include: reviewing and approving state grant applications; obligating funds; managing grants; overseeing the state's implementation of the annual program, including revisions to the program of projects; receiving state certifications; reviewing and approving State Management Plans; providing technical assistance and advice to the states as needed; and performing state management reviews every three years, or as circumstances warrant. The KYTC/OTD falls under the FTA Region IV office located in Atlanta, Georgia. The northern, Kentucky and Henderson urbanized areas fall under the FTA Region V, Chicago, IL office. The Huntington-Ashland-Ironton Urbanized Area falls under the FTA Region III in Philadelphia.

Kentucky Transportation Cabinet/Office of Transportation Delivery (KYTC/OTD)

The Governor, pursuant to the provisions of 49 USC 5310, 5311, 5307, and 5309, **5339** has designated KYTC/OTD as administrator and recipient of these funds KYTC/OTD has the

legal authority to enter into contractual agreement with private and public entities for capital, administrative, operations, and technical assistance projects on behalf of the State.

In regards to administering federal transit grants, KYTC/OTD has the primary responsibility for the following:

- Developing and implementing public transportation programs throughout the state;
- Ensuring adherence to federal program guidelines by all subrecipients through periodic monitoring and oversight;
- Notifying eligible and/or potential local entities of the availability of programs;
- Developing project selection criteria;
- Soliciting applications;
- Ensuring fair and equitable distribution of program funds;
- Ensuring the maximum feasible coordination of transit resources at both the state and local levels; and
- Ensuring a process whereby private transit and paratransit operators are provided an opportunity to participate to the maximum extent feasible.

The Office of Transportation Delivery administers FTA programs in the State. The USDOT/Federal Transit Administration Programs listed below are authorized under Chapter 53 of title 49 U.S.C., as amended by the Moving Ahead for Progress in the 21st Century Act (MAP-21). This document outlines the policies and procedures for management of the §5311 Rural Area), §5310 (Enhanced Mobility of Seniors and Individuals with Disabilities and the §5311(b)(3) (Rural Transit Assistance Program). §5316 (Job Access and Reverse Commute Program) and §5317 (New Freedom Initiative) expired under MAP-21. Current ongoing grants will continue until all needed funds are expended. Job Access and Reverse Commute activities are now eligible under the Urbanized Area Formula Program (5307) and the Rural Area Formula Program (5311). Capital and Operating activities eligible under the former New Freedom program are now eligible under the Enhanced Mobility of Seniors and Individuals with Disabilities Program (5310).

Area Development Districts (ADDs)

Rural communities that are not a part of the urbanized areas of MPOs are included in Area Development Districts (ADD). ADDs provide a planning process, reviewed periodically by KYTC, to ensure that federal and state regulations and guidelines for transportation planning in rural areas are met. Among their many duties, each ADD is responsible for providing a public forum and serving as an advisory board to review funding applications from local agencies within their region and prioritizing projects for KYTC review and concurrence. Projects approved by KYTC/OTD are included in the State Transportation Improvement Plan (STIP) for submission to the appropriate federal agencies.

The contact information for all the ADDs in Kentucky is as follows:

http://www.kycadd.org/

Metropolitan Planning Organizations (MPOs)

A Metropolitan Planning Organization (MPO) is a transportation policy-making organization made up of representatives from local government and transportation authorities. MPOs were created in order to ensure that existing and future expenditures for transportation projects and programs were based on a comprehensive, cooperative, and continuing planning process.

The role of the MPO includes: establishing a local forum for transportation decision making; evaluating transportation alternatives; developing and updating a long-range transportation plan; developing a Transportation Improvement Program (TIP); and getting the public involved.

The KYTC works in cooperation with these local groups in developing their TIPs. In accordance with federal regulations, the MPOs establish their project priorities and KYTC includes those in the statewide program.

Individual TIPS are available for each Metropolitan Planning Organization.

There are nine Metropolitan Planning Organizations (MPOs) in Kentucky. The following link provides the contact information for each MPO.

http://transportation.ky.gov/Planning/Documents/Kentucky's%20MPOs.pdf

Planning and Long Term Goals

Each sub-recipient shall submit a grant application each year (April 1) to KYTC/OTD and include two-year budgets for operations/planning and three-year capital budgets and any long term public transit goals. Each grant application shall include local elected official support documentation. The sub-recipient shall also include in their grant application other projects in their operating area that local officials support and/or finance.

Statewide Transportation Improvement Program (STIP)

The KYTC developed and maintains a Statewide Transportation Improvement Program (STIP) for all areas of the State. The STIP includes a priority list of transportation projects including those completed in the first 3 years of the STIP[1]. A list of rural transit projects is part of the STIP by reference. In addition, the projects included in the STIP must be consistent with the Statewide transportation plan, be financially constrained; contain all capital and non-capital transportation projects; and in non-attainment areas conform to federal and state regulations.

The KYTC must notify the Metropolitan Planning Organization (MPO), local jurisdictions, Federal land agencies, and if applicable Indian tribal governments when projects under their jurisdiction are included in the STIP. The MPO prepares a Transportation Improvement Program (TIP) and incorporates it into the STIP after approval by the MPO and the Governor or his designee. Federal Highway Administration (FHWA) and the FTA review the STIP for consistency with the federal regulations and, if acceptable, jointly approve.

[1] Commonwealth of Kentucky State Transportation Improvement Plan can be found at http://transportation.ky.gov/Program-Management/Pages/2015-Draft-STIP-Book.aspx

The STIP governs nine Kentucky MPOs:

- Ashland/KYOVA
- Henderson/Evansville
- Oak Grove/Clarksville
- Lexington
- Louisville
- Northern KY
- Owensboro
- Bowling Green
- Radcliff/Elizabethtown

Chapter 2: Overview of Transit Programs

Section 5307 - Urbanized Area Formula Grants

This program makes Federal resources available to urbanized areas and to Governors for transit capital and operating assistance in urbanized areas and for transportation related planning. An urbanized area is an incorporated area with a population of 50,000 or more that is designated as such by the U.S. Department of Commerce, Bureau of the Census.

Eligible purposes include planning, engineering design and evaluation of transit projects and other technical transportation-related studies; capital investments in bus and bus-related activities such as replacement of buses, overhaul of buses, rebuilding of buses, crime prevention and security equipment and construction of maintenance and passenger facilities; and capital investments in new and existing fixed guide way systems including rolling stock, overhaul and rebuilding of vehicles, track, signals, communications, and computer hardware and software. All preventive maintenance and some Americans with Disabilities Act complementary paratransit service costs are considered capital costs.

For urbanized areas with a population of 200,000 and over, funds are apportioned and flow directly to a designated recipient selected locally to apply for and receive Federal funds. For urbanized areas under 200,000 in population, the funds are apportioned to the Governor of each state for distribution. Kentucky has the option of 5307 grants between 50,000-199,999 that may apply directly to FTA or via the KYTC/OTD.

Section 5309 - Capital Investment Program

The Federal Transit Administration (FTA) Capital Investment Program funds provide assistance for bus and bus related facilities, establishment of new rail transit projects, and improvement and maintenance of existing rail transit and other fixed guide-way systems. Bus/Bus Facilities includes bus purchases and improvements to bus facilities. Funds are

allocated to recipients through a Congressional earmark or may originate from FTA and be nationally competitive.

The FTA administers the 5309 program. Applicants for Bus and Bus Facilities funding request appropriation earmarks from their Congressional representatives. If projects receive funding earmarks through legislative appropriation in the federal transportation funding bill, recipients are eligible to submit applications for 5309 funds to FTA/KYTC-OTD. FTA requires an 80/20 Federal/Local match for this program.

KYTC/OTD has historically utilized 5309 funds for a local vehicle replacement program for those vehicles that have reached or exceeded useful life and/or to enhance or construct transit facilities/infrastructure. At the discretion of the Cabinet, Toll Credits may be allowed for the local share.

Under MAP 21, Section 5309 **FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS ("NEW STARTS")**

Section 5309 **Purpose**

Provides grants for new and expanded rail, bus rapid transit, and ferry systems that reflect local priorities to improve transportation options in key corridors. This program defines a new category of eligible projects, known as core capacity projects, which expand capacity by at least 10% in existing fixed-guideway transit corridors that are already at or above capacity today, or are expected to be at or above capacity within five years. The program also includes provisions for streamlining aspects of the New Starts process to increase efficiency and reduce the time required to meet critical milestones.

Statutory References

49 U.S.C. Section 5309 / MAP-21 Section 20008

Eligible Recipients

State and local government agencies, including transit agencies.

Section 5310 – Enhanced Mobility of Seniors and Individuals with Disabilities Program

Section 5310 **Purpose**

This program is intended to enhance mobility for seniors and persons with disabilities by providing funds for programs to serve the special needs of transit-dependent populations beyond traditional public transportation services and Americans with Disabilities Act (ADA) complementary paratransit services.

Statutory References

49 U.S.C. Section 5310 / MAP-21 Section 20009 Circular: C9070.1G

Eligible Recipients

• States (for all areas under 200,000 in population) and designated recipients.

• Subrecipients: states or local government authorities, private non-profit organizations, or operators of public transportation that receive a grant indirectly through a recipient.

Eligible Activities

• At least 55% of program funds must be used on capital projects that are:

• Public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable.

• The remaining 45% may be used for:

• Public transportation projects that exceed the requirements of the ADA.

• Public transportation projects that improve access to fixed-route service and decrease reliance by individuals with disabilities on complementary paratransit.

• Alternatives to public transportation that assist seniors and individuals with disabilities.

What's New?

• Consolidates New Freedom Program and Elderly and Disabled Program.

• Operating assistance is now available under this program.

Funding

• Funds are apportioned for urbanized and rural areas based on the number of seniors and individuals with disabilities.

• Federal share for capital projects (including acquisition of public transportation services) is 80%. **Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities**

Funding (cont.)

• Federal share for operating assistance is 50%.

• Adopts New Freedom funding allocations:

• 60% to designated recipients in urbanized areas with a population over 200,000.

• 20% to states for small urbanized areas.

• 20% to states for rural areas.

Ongoing Provisions

• Local share may be derived from other federal (non-DOT) transportation sources or the Federal Lands Highways Program under 23 U.S.C. 204 (as in former Section 5310 program).

• Permits designated recipients and states to carry out competitive process to select subrecipients.

• Recipients must certify that projects selected are included in a locally developed, coordinated public transit-human services transportation plan. The plan must undergo a development and approval process that includes seniors and people with disabilities, transportation providers, among others, and is coordinated to the maximum extent possible with transportation services assisted by other federal departments and agencies.

• Permits acquisition of public transportation services as a capital expense.

• Up to 10% of program funds can be used to administer the program, to plan, and to provide technical assistance.

The 5310 program assist private or designated public nonprofit agencies in meeting the transportation needs of older adults and ~~e~~ individuals with disabilities. The Office of Transportation Delivery, through the Section 5310 program, provides funds to private nonprofit entities, public bodies approved by the state to coordinate transportation services for older adults and people with disabilities, or public bodies which certify to the Governor that no private nonprofit entity or association is readily available in an area to provide the service.

Federal financial assistance under the Section 5310 program is limited to participation in the cost of capital equipment, cost for purchase of transportation service contract(s), mobility management, and state-level administrative costs to administer the program. Because of the large statewide demand, the current policy of the Cabinet is to fund replacement vehicles, not expansion vehicles, unless in an extreme and documented case whereby an expansion of services is needed and greatly benefit the local community and the Commonwealth.

The goal of the Section 5310 program is to improve mobility for older adults and people with disabilities throughout the state and to enhance coordination of federally assisted programs and services in order to encourage the most efficient use of federal resources and achieve the national goal of improved mobility of elderly persons and persons with disabilities. In Kentucky both private and public nonprofit agencies are encouraged to coordinate transportation services with agencies that provide transportation services to the public. KYTC/OTD is the designated recipient for small urban and rural areas of the State. The State may also be a designated recipient for an urbanized area. A fully Coordinated Plan is required.

Any applicant wishing to apply for a §5310 grant must follow the directions as detailed in Appendix C.2

[2] FTA Circular 9070. 1G, June 6, 2014
http://www.fta.dot.gov/legislation_law/12349_16011.html

COORDINATION REQUIREMENTS. Title 49 U.S.C. 5310, as amended by MAP-21, requires a recipient of Section 5310 funds to certify that projects selected for funding under this program are included in a locally developed, coordinated public transit-human service transportation plan and that the plan was developed and approved through a process that included participation by seniors; individuals with disabilities; representatives of public, private, nonprofit transportation and human service providers; and other members of the public. FTA strongly encourages coordination and consistency between the local coordinated public transit-human service transportation plan and metropolitan or statewide transportation planning processes, as described in 23 CFR part 450 and 49 CFR part 613.

Section 5311-Formula Grants for Rural Areas

The 5311 funds can be used for the costs of transit planning activities, transit operations and purchase of capital equipment or facilities to aid in provision of transit services in rural areas, as well as provide funds for state-level administration. Federal regulation requires that 15% percent of these funds be reserved each year to support an Intercity Bus Program, unless the Governor of a state certifies that intercity bus needs in the state are being met.

Through the Section 5311 Program, the Office of Transportation Delivery (OTD) provides administrative, operating and capital assistance to public transportation projects in nonurbanized (rural) areas. The program goals are:

- Assist in meeting the transportation needs of transit-dependent people and to enhance access to health care, shopping, education, employment, public services, and recreation;
- Assist in the maintenance, development, improvement and use of public transportation systems;
- Encourage and facilitate the most efficient use of all federal funds used to provide passenger transportation in non-urbanized areas through the coordination of programs and services;
- Assist in the development and support of intercity bus transportation; and

- Provide for the participation of private transportation providers in rural transportation to the maximum extent feasible.

Section 5311 Revisions: Proposed Circular: C 9040.1G

Low-income populations in rural areas now incorporated as a formula factor, similar to the repealed Job Access and Reverse Commute (JARC) program.

- Planning is an eligible activity.
- Appalachian Development Public Transportation Assistance Formula Program is a set-aside program.
- Administration, planning, and technical assistance set-aside for states reduced to 10% from 15%.
- Cost of unsubsidized portion of privately provided intercity bus service that connects feeder service is now eligible as in-kind local match.

• Certain expenditures by vanpool operators may be used as local match.

Formula Grants for Rural Areas

Funding

• Federal share is 80% for capital projects.

• Federal share is 50% for operating assistance.

• Federal share is 80% for Americans with Disabilities Act (ADA) non-fixed-route paratransit service, using up to 10% of a recipient's apportionment.

Rural Formulas

• 83.15% of funds apportioned based on land area and population in rural areas

• 16.85% of funds apportioned based on land area, revenue-vehicle miles, and low-income individuals in rural areas.

Appalachian Development Public Transportation Assistance Formula Program

• $20 million formula program for states in the Appalachian Region.

Job Access and Reverse Commute Program (JARC) (Section 5316).

The Section 5316 Job Access and Reverse Commute Program (JARC Program) was a formula grant program for projects that improve access to employment-related transportation services for welfare recipients and eligible low-income individuals, and that transport residents of urbanized and rural areas to suburban employment opportunities. This program was repealed by MAP-21. Funds that were apportioned to urbanized and rural areas for Fiscal Year 2012 and prior years will remain available for obligation until they lapse or are expended, and remain subject to the program requirements at the time they were apportioned. Guidance for funds apportioned under the Section 5316 JARC Program is contained in FTA Circular 9050.1, "The Job Access and Reverse Commute (JARC) Program Guidance and Application Instructions."

3. While the Section 5316 JARC program was repealed under MAP-21, job access and reverse commute projects are now an eligible project type under the Rural Area Formula Program. Please see Chapter III – Eligibility – for a list of project types and requirements under Section 5311.

New Freedom Program (Section 5317).

4. The New Freedom Program (Section 5317) was a formula grant program that provided funding for capital and operating expenses to support new public transportation services beyond those required by the ADA and new public transportation alternatives beyond those required by the ADA designed to assist individuals with disabilities with accessing transportation services. The purpose of the New Freedom formula grant program was to provide additional resources to overcome existing barriers facing Americans with disabilities seeking integration into the work force and full participation in society. Guidance for funds apportioned

under the Section 5317 New Freedom Program is contained in FTA Circular 9045.1, "New Freedom Program Guidance and Application Instructions."

5. The New Freedom Program was repealed by MAP-21. Unexpended funds apportioned for Fiscal Year 2012 and prior years will remain available for obligation until they lapse or are expended, and are subject to the rules under which they were apportioned.

6. While the Section 5317 New Freedom Program was repealed under MAP-21, similar projects are eligible under the Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Formula Program. Program information will be available in FTA Circular 9070.1G.

APPALACHIAN DEVELOPMENT PUBLIC TRANSPORTATION ASSISTANCE PROGRAM (ADTAP)

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

   FTA intends to coordinate with the Appalachian Region Commission (ARC) to foster the development of public transportation service in eligible areas: FTA's ADTAP will enhance existing transportation service and create new services in order to decrease isolation within the region.

2. NATIONAL PROGRAM OBJECTIVES. While this program is funded under FTA's Section 5311 program, the national program objective is to delivery of safe, reliable public transportation services to rural areas in the Appalachian region. Consistent with the objectives of the Section 5311 program; funds should enhance access to health care, shopping, education, employment, public services, and recreation.

3. ELIGIBLE RECIPIENTS AND SUBRECIPIENTS. Eligible rural recipients under the ADTAP include 13 States located in the Appalachian region: Alabama, Georgia, Kentucky, Maryland, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia as defined under Title 40, section 14010 of the Appalachian Regional Development. Subrecipients of ADTAP funding include State or local governmental authorities, non-profit organizations, and operators of public transportation services.

4. ELIGIBLE SERVICES AND SERVICE AREAS. A service area must be located in the Appalachian region, to be eligible for funds. (Please see Table 3: Eligible States and Counties in the Appalachian Region).

STATES AND COUNTIES IN THE APPALACHIAN REGION

Kentucky:	Adair, Bath, Bell, Boyd, Breathitt, Carter, Casey, Clark, Clay, Clinton, Cumberland, Edmonson, Elliott, Estill, Fleming, Floyd, Garrard, Green, Greenup, Harlan, Hart, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Menifee, Metcalfe, Monroe, Montgomery, Morgan, Nicholas, Owsley, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Russell, Wayne, Whitley, and Wolfe

5. FORMULA ALLOCATIONS. FTA apportions ADTAP funds to designated States by a statutory formula based on the guidelines established under section 9.5(b) of the Appalachian Regional Commission Code. The allocation includes each State's remaining estimated need to complete eligible sections of the Appalachian Development Highway System (ADHS) as determined from the latest available cost estimates for completion of the System. Cost estimates are produced at approximate five year intervals. Allocations contain upper and

lower limits in amounts or percentages to be determined by the Commission and are made in accordance with legislative instructions.

6. FUNDS AVAILABILITY. Appalachian Development Program funds are available for the fiscal year in which they are apportioned plus two additional fiscal years. If the State does not obligate its allocation during this period, FTA reallocates the funds among the States that are eligible to receive this funding by formula.

7. ELIGIBLE PROJECTS. A State may use ADTAP program funds for capital projects, operating assistance, planning, job access reverse commute projects, and the acquisition of public transportation services, including service agreements with private providers of public transportation. The State may also use up to 10 percent of its ADTAP program funds to administer the program and provide technical assistance to subrecipients. Technical assistance includes project planning, program and management development, public transportation coordination activities, and research the State considers appropriate to promote effective delivery of public transportation in rural areas of the Appalachian region.

8. LOCAL SHARE.

   a. A 20% local match is required for Capital and 50% for Operating expenses.

   b. There is no local match required for the additional 10 percent permitted for administration and technical assistance for ADTAP projects.

   c. The Sliding Scale rate under Section 5311 is applicable to the ADTAP (See Chapter 111. 5 for more information).

   d. For eligible sources of local match see Chapter 111. 4. C of this circular.

9. PROGRAM ADMINISTRATION. The ADTAP funds are a separate allocation, but are apportioned annually and can be combined in the regular Section 5311 grant application as long as the State DOT accounts for the use of ADTAP funds in the Program of Projects. In order to maximize Section 5311 program funding an eligible State should use ADTAP formula funding as the funding source for selected rural transit projects within the designated Appalachian region. Section 5311 funds should be used to address needs not covered by the ADTAP allocation.

10. TRANSFER PROVISIONS. States that are eligible for the ADTAP may use amounts that cannot be used for operating expenses for a highway project if the Governor approves the use in writing after appropriate notice and an opportunity for comment and appeal are provided to affected public transportation providers in the Appalachian region. The Governor must certify that the local transit needs are being addressed. In order for FTA to consider the transfer, a State must provide documentation to the FTA regional office that includes a description of the consultation used and certification by the local providers (i.e. State, local transit operators, and local RTPO (if applicable)) that all local operating needs are met. Upon receipt, FTA will review the request and if approved will transfer the funds consistent with FTA's transfer process (please see chapter III. 6).

11. STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP) AND/OR TRANSPORTATION IMPROVEMENT PROGRAM (TIP) REQUIREMENT. A State requesting ADTAP must comply with the planning requirements of 49 U.S.C. 5303 through 5305. Projects proposed for ADTAP funding must be a product of the statewide and nonmetropolitan transportation planning process and/or the metropolitan planning process specified in 23 CFR part 450 and 49 CFR part 613. With limited exceptions, States must include all Federal funds to be used for highway or transit projects in a Statewide Transportation Improvement Program (STIP) consistent with 23 U.S.C. 135 and 49 U.S.C.

5304. States must include ADTAP funds in the STIP (see Chapter IV. 2 for detailed information).

The Office of Transportation Deliver –OTD will incorporate Appalachian Program funds within the Section 5311 Rural Program of Projects. The first year of Appalachian Program funds will be offered equally to transit systems that have one of the fifty-four (54) Kentucky Appalachian counties. Historically, transit agencies located in the Appalachian area are underserved and include heavily populated persons with low income, unemployment, and persons with disabilities. Transit agencies should utilize the Appalachian Program funds first. Section 5311 Rural funds, if available, will be utilized in the Appalachian area when ADTAP are not sufficient.

RTAP Section 5311(b) (3) - Rural Transit Assistance Program

Section 5311(b) (3) authorizes the Secretary "to make grants and contracts for transportation research, technical assistance, training and related support services in non-urbanized areas." The Rural Transit Assistance Program (RTAP) provides a source of funding to assist in the design and implementation of training and technical assistance projects and other support services tailored to meet the specific needs of transit operators in rural areas. RTAP has both state and national program components.

The State program provides an annual allocation to each state for development and implementation of training and technical assistance programs in conjunction with the State's administration of the Section 5311 formula assistance program. The national program provides for the development of information and materials for use by local operators and state-level administrators and supports research and technical assistance projects of national interest.
The objectives of RTAP are:

1. To promote the safe and effective delivery of public transportation in rural areas;
2. To make more efficient use of public and private resources;

3. To foster the development of state and local abilities to address the training and technical assistance needs of the rural transportation community;
4. To improve the quality of information and technical assistance available through the development of training and technical assistance resource materials;
5. To facilitate peer-to-peer self help through the development of local networks of transit professionals;
6. To support the coordination of public, private, specialized, and human service transportation services; and
7. To build a national data base of the small urban and rural public transportation industry.

Funds can be used to directly provide training and/or technical assistance with state staff, to contract with others for provision of training/technical assistance, to assist local entities with the cost of training available from other sources, and to develop local capabilities for self-help. KYTC/OTD administers RTAP funding through a selection committee. RTAP Committee is comprised of Office of Transportation Delivery Executive Director or Public Transit Branch Manager, or their designee; one KYTC/OTD employee appointed by OTD Executive Director, and a member of each of the five Kentucky RTAP regions. The Kentucky Public Transit Association votes upon committee selection every two years. RTAP Committee meets and determines the selection criteria requirements, and is the decision making body in determining project selection. The Section 5311 Circular states that providers of specialized transportation in urbanized areas, such as Section 5310 funded agencies, as well as public transit operators in small urbanized areas, have many of the same training and technical assistance needs as transit providers in rural areas. FTA permits participation by these providers in RTAP sponsored activities, at the State's discretion, so long as the activities are primarily designed and delivered to benefit rural Transit providers. Depending on availability of funding and training capacity,

small urban and urban 5310 systems and 5307 systems may be allowed to participate when there is surplus capacity in a training session and not more than incidental beneficiaries.

Any applicant wishing to complete an RTAP application must comply with the guidelines and directions detailed in Appendix B.

Intercity Bus - Section 5311(f)

"Eligible Service and Service Areas. States can use Section 5311 funds for public transportation projects and intercity bus transportation projects in rural areas. The purpose of Section 5311 assistance is the provision of public transportation services and maximum feasible coordination with other rural transportation services" (FTA C 9040.1F).

Section 5311(f) requires each state to spend fifteen percent of its annual Section 5311 apportionment "to carry out a program to develop and support intercity bus transportation," unless the Governor certifies that "the intercity bus service needs of the state are being met adequately." The required percentage applies only to the amount of FTA's annual apportionment of Section 5311 funds to the state, not to any funds the state subsequently transfers to its rural area formula program from another programs.

- "In many States, intercity bus service is a vital link between otherwise isolated rural communities and the rest of the nation. In the 1980's and more recently, major intercity bus carriers abandoned many less productive routes. Patronage generated in rural areas, however, appears to be important to the continuing viability of the remaining intercity routes. One objective of the funding for intercity bus service under Section 5311, therefore, is to support the connection between rural areas and the larger regional or national system of intercity bus service. Another objective is to support services to meet the intercity travel needs of residents in rural areas. A third objective is to support the infrastructure of the intercity bus network through planning and marketing assistance and capital investment in facilities. FTA encourages States to use the funding under 49 U.S.C. 5311(f) to support these national objectives, as well as priorities determined by

the State" (FTA C 9040.1F). In order to promote coordination and to prevent the duplication of services, the Cabinet will not contract directly with for-profit intercity companies. The company must apply through and be funded through an existing Section 5311 public transit operator. Interline – means providing seamless ticketing and travel information for the convenience of customers. Transit 5311(f) agencies with regular/fixed routes may interline. To encourage the development of intercity feeder bus networks, FTA allows states to use the capital costs of private, unsubsidized intercity bus service as in-kind match for the operating costs of 5311(f)-funded rural intercity for Regular Fixed Routes.

50% of an Intercity Bus such as Greyhound's total cost per mile can be used as local in-kind match. Demand response intercity feeder service is not eligible to interline in-kind match.

In Kentucky over the last several years, Greyhound has abandoned most of its rural service, but Greyhound and other private Operators maintain service between the larger Cities. Many of the rural public transit systems within Kentucky have picked up those abandoned lines as part of their daily public transportation operations as well as providing feeder service that connects the rural communities to the closest city with intercity bus service. Emphasis is placed on connecting the rural communities with the next larger market economy and connecting bus, rail and air transportation to help provide the vital link between otherwise isolated rural communities and the rest of the nation. The demand responsive intercity feeder service offered by Kentucky's rural public transit systems helps provide intercity connections to rural communities and increases ridership to help support the intercity service that is still provided by Greyhound and other operators offering Intercity Service between the larger cities.

Section 5339 Bus and Bus Facilities Formula Grant

Purpose

Provides capital funding to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities.

Statutory References

49 U.S.C. Section 5339 / MAP-21 Section 20029

Eligible Recipients

• Designated recipients and states that operate or allocate funding to fixed-route bus operators.

• Subrecipients: public agencies or private nonprofit organizations engaged in public transportation, including those providing services open to a segment of the general public, as defined by age, disability, or low income.

What's New?

• Replaces the Section 5309 Bus and Bus Facilities Program.

• Funds are eligible to be transferred by the state to supplement urban and rural formula grant programs (5307 and 5311, respectively).

Eligible Activities

• Capital projects to replace, rehabilitate and purchase buses, vans, and related equipment, and to construct bus-related facilities.

Funding

• $65.5 million will be allocated, with each state receiving $1.25 million and each territory (including D.C. and Puerto Rico) receiving $500,000.

• Funds are available for three years after the fiscal year in which the amount is apportioned.

• Remaining formula based upon population, vehicle revenue miles and passenger miles.

• Federal share is 80% with a required 20% local match.

Coordination Planning

Through a regional coordinated planning effort (discussed in Chapter 5 of this plan), KYTC/OTD has implemented a uniform application and selection process for the Section 5310~~,~~ program.

5, (5303and 5304) – Metropolitan and Statewide Planning

These programs provide funding to support cooperative, continuous, and comprehensive planning for making transportation investment decisions in metropolitan areas and statewide. State Departments of Transportation (DOTs) and Metropolitan Planning Organizations (MPOs). Federal planning funds are first apportioned to State DOTs. State DOTs then allocate planning funding to MPOs. Funds are available for planning activities. Section 5303 is MPO planning and Section 5304 is Statewide planning and coordination that Kentucky utilizes funds to contract coordination and technical activities that will assist transit providers with various activities.

State Role In Programs Administration

It is the goal of KYTC/OTD to maximize the benefits received through Section 5310, 5311programs by facilitating mobility options to business, commercial, educational and other activities in support of local economic progress and development. To this end, the Office of Transportation Delivery has integrated the administration of these programs as much as possible to streamline its oversight functions, while remaining committed to the separate goals established for each program by Congress.

The KYTC/OTD shares a partnership role with local governments or its representatives and transit agencies committed to operating rural public transportation programs. As administrator of the funds, KYTC/OTD assumes responsibility for the organization and management of these programs. In this capacity, KYTC/OTD functions as a conduit for funds and financial programming. KYTC/OTD also responds to the Federal funding agency (FTA). KYTC/OTD develops criteria for application approval, notifies eligible local recipients of the availability of program funds, reviews and selects applicants for funding, ensures compliance with federal requirements, and monitors project activity.

Goals and Objectives

Kentucky Transportation Cabinet/Office of Transportation Delivery Mission Statement:

The Kentucky Transportation Cabinet's goal is to provide a safe, efficient, environmentally sound and fiscally responsible transportation system that promotes economic growth and enhances the quality of life in Kentucky.

The public transportation mission of the Kentucky Transportation Cabinet is to assist in the promotion of accessible, safe, cost-effective transportation that fulfills the needs of the citizens of Kentucky.

Office of Transportation Delivery Program Objectives

I. Introduction

The Commonwealth of Kentucky consists of three distinct areas: rural, small urban and large urban/metropolitan.[3] Each area has specific but varying transit needs. Dispersed populations and vast distances between communities characterize rural areas in Kentucky. Sparse population combined with the great distances and the lack of transit amenities intensifies the need for transportation services.

Unable to access such necessities as medical care and nutrition programs the rural elderly and persons with disabilities become "prisoners" of their environment. The quality of available and affordable transportation in these rural regions has a direct bearing on the quality of life for all residents.

While the small urban areas usually contain basic services, residents of the smaller communities often must travel many miles to access specialized services. Transit systems serving these areas are usually demand response and provide service to the elderly and persons with disabilities including service to the public. The intercity transportation services provided by Kentucky's rural public transit systems help connect the smaller communities

[3] 49 U.S.C. Chapter 53 defines a rural area as a population less than 20,000, small urban area as a population over 20,000 but less than 200,000 and a large urban/metropolitan area as a population over 200,000.

with the next larger market economy and connecting bus, rail and air transportation to help provide the vital link between otherwise isolated rural communities and the rest of the nation.

All urbanized areas in the Commonwealth are over 50,000 in population and have distinctive transit needs and funding. The large urban/metropolitan areas have access to all basic and specialized services and are able to support both a public fixed route system and a demand response system for persons with disabilities.

The Governor has designated the Kentucky Transportation Cabinet, Secretary who in turn designates the Office of Transportation Delivery ("KYTC/OTD") as administrator of all Federal Transit Administration (FTA) programs affecting small urban and rural areas and the FTA planning grants for the metropolitan areas of the state. KYTC/OTD funds may be available to match up to ten percent (10%) of capital purchases made under the 49 U.S.C §5307, §~~5308~~, §5309, §5310, §5311, §5339, programs. The local sub-recipient receives local match funds through unrestricted federal funds, county and city allocations and local fundraisers. Toll Credits may be available for up to 20% of capital purchases.

KYTC/OTD is responsible for the administration of 49 U.S.C. §5303, applicable §5307, (50,000-200,000 in population) and §5309, §5310, §5311, §5311(b) (3), programs and administration of the state match for the 49 U.S.C. §5307 program.

As the Governor's designee, KYTC/OTD responsibilities include:

(1) Notifying eligible local entities of the availability of the program;

(2) Soliciting applications;

(3) Developing project selection criteria;

(4) Reviewing and selecting projects for approval;

(5) Developing an equitable distribution of funds to all eligible recipients within the Commonwealth.

(6) Forwarding an annual Program of Projects and grant applications to FTA;

(7) Certifying eligibility of applicants and project activities;

(8) Ensuring compliance with Federal guidelines by all local recipients;

(9) Monitoring local projects;

(10) Overseeing project audits and closeouts;

(11) And in the case of transit planning studies directly administering the project.

(12) Assess new areas in need of public transportation services

This Kentucky State Management Plan ("SMP") describes each FTA program available to eligible organizations, provides guidelines for compliance, and explains procedures for project selection, vehicle procurement, and project reporting requirements. SMP is guidance for small urban and rural FTA grant programs.

Eligibility

Eligible Subrecipients

To be eligible to receive allocation of Section 5307, 5310, 5311, 5339, an eligible subrecipient must submit an authorized resolution that they are proposing to serve signed by the Authorized Official and certified by their attorney. Additionally, each subrecipient agrees to comply with applicable certifications and assurances. The following specific guidance applies:

Section 5310 – Transportation for Enhanced Mobility for Seniors and Individuals with Disabilities

49 U.S.C. §5310 states that elderly persons and persons with disabilities have the same rights as other persons to utilize public transportation facilities and services. Therefore, the program recipient shall use special efforts in the planning and design of these facilities and services to assure their availability to this specialized group. This program covers the urban, small urban and rural areas of the Commonwealth.

Funds are available to private nonprofit corporations for the specific purpose of providing transportation services meeting the special needs of elderly persons and persons with disabilities where public transportation services are unavailable, insufficient or inappropriate. In

addition, public bodies approved by the state to coordinate services for the elderly and persons with disabilities are eligible for §5310 funding when no private nonprofit is available to apply for and serve the area. While recipients of these funds usually serve specific clientele, they may open their service to all when such service *does not interfere with the transportation service designed to meet the special needs of elderly persons and persons with disabilities.* Kentucky strongly urges all §5310 recipients to offer transportation to anyone needing specialized services.

Eligible Activities

• At least 55% of program funds must be used on capital projects that are:

• Public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable.

• The remaining 45% may be used for:

• Public transportation projects that exceed the requirements of the ADA.

• Public transportation projects that improve access to fixed-route service and decrease reliance by individuals with disabilities on complementary paratransit.

• Alternatives to public transportation that assist seniors and individuals with disabilities.

Section 5311 –Formula Grants for Rural Areas

SECTION 5311 STATUTORY AUTHORITY. The Formula Grants for Rural Areas Program, codified at 49 U.S.C. 5311 (Section 5311) is authorized under the provisions set forth in the Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law 112-141. Under this program, funding assistance is provided for public transportation in rural areas. The Federal Transit Administration (FTA), on behalf of the Secretary of Transportation, apportions the funds appropriated annually to the Governor of each State and federally recognized Indian Tribes for public transportation projects in rural areas. The code assigned to Section 5311 grants in the Catalogue of Federal Domestic Assistance is 20.509.

FTA's Formula Grants for Rural Areas Program is also referred to as the Section 5311 program.

The Section 5311 program includes: the Appalachian Development Public Transportation Assistance Program; the Rural Transit Assistance Program (RTAP); and the Tribal Transit Program. The Tribal Transit Program has both a discretionary and a formula program. For the formula grants for rural areas 83.15 percent of funds are apportioned based on land area and population factors. The other 16.85 percent is apportioned based on land area, vehicle revenue miles, and the ratio of low-income individuals residing in rural areas. No State may receive more than five percent of the amount apportioned for land area or vehicle revenue miles. In addition, FTA adds amounts apportioned based on rural population according to the growing States formula factors of 49 U.S.C. 5340 to the amounts apportioned to the States under the Section 5311 formula.

Annually, Kentucky will prepare and submits to FTA a program of projects. A State's program of projects must provide for fair and equitable distribution of funds within the State. A State may pass through its Section 5311 program funds to subrecipients that are State or local governmental authorities, non-profit organizations, operators of public transportation services, or intercity bus operators.

A State may use Section 5311 program funds for capital projects, operating assistance, planning, job access reverse commute projects, and the acquisition of public transportation services, including service agreements with private providers of public transportation. The State may also use up to 10 percent of its Section 5311 program funds to administer the program and provide technical assistance to subrecipients. Technical assistance includes project planning, program and management development, public transportation coordination activities, and research the State considers appropriate to promote effective delivery of public transportation in rural area. Planning activities are an eligible expense under Section 5311,

and shall be in addition to funding awarded to a State under section 5305 for planning activities that are directed specifically at the needs of rural areas in the State. There is no limitation on use of Section 5311 funds for operating assistance; however, the State must use at least 15 percent of its annual apportionment to support intercity bus service, unless the Governor certifies, after consultation with affected intercity bus providers, that the intercity bus needs of the State are adequately being met.

In addition, as of FY 2006, Section 5311(b) (3) provides funding for the Rural Transportation Assistance Program (RTAP) as a two percent takedown from the amount authorized and appropriated for Section 5311. From the amounts made available for RTAP, The Secretary may use up to 15 percent to carry out competitively selected projects of a national scope with the remaining balance allocated to the States. States can use RTAP funds for technical assistance, training, research, and related support activities.

MAP-21 establishes a new Appalachian Development Public Transportation Assistance Program (49 U.S.C. 5311 (c) (2)). This new program is a funded with a take-down under the Section 5311 program to provide additional funding to States in the Appalachian Region of the United States.

The formula is established based on section 9.5 (b) of the Appalachian Regional Commission Code (subtitle 40). Funds may be used for public transportation activities consistent with the formula grants for rural areas program. The funds are apportioned to the following States: Alabama, Georgia, Kentucky, Maryland, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia and West Virginia.

PROGRAM GOALS.

Pursuant to 49 U.S.C. 5311, FTA apportions or awards funds to States, Indian tribes, or other eligible recipients located in rural areas for planning, public transportation capital projects,

operating costs, job access reverse commute projects, and the acquisition of public transportation service. The Section 5311 program supports both the maintenance of existing public transportation services and the expansion of those services through the following program goals:

a. enhancing access in rural areas to health care, shopping, education, employment, public services, and recreation;

b. assisting in the maintenance, development, improvement, and use of public transportation systems in rural areas;

c. encouraging and facilitating the most efficient use of all transportation funds used to provide passenger transportation in rural areas through the coordination of programs and services;

d. providing financial assistance to help carry out national goals related to mobility for all, including seniors, individuals with disabilities, and low-income individuals;

e. increasing availability of transportation options through investments in intercity bus services;

f. assisting in the development and support of intercity bus transportation;

g. encouraging mobility management, employment-related transportation alternatives, joint development practices, and transit-oriented development; and

h. providing for the participation of private transportation providers in rural public transportation.

Eligible recipients of §5311 funds include a State or Indian tribe that receives an FTA grant directly from the Federal Government. Eligible subrecipients are State agencies, local public bodies, transit authorities under KRS 96A and private non-profit organizations. For Section 5311 and Private for profit operators of transit service may participate in the program through contractual agreement with eligible subrecipients who provide public transportation in rural area to be served. Subrecipients must use the Section 5311 funds in the rural (non-urbanized) areas of the state for public transportation.

FTA defines public transportation as public transportation by bus, rail, or other conveyance, publicly or privately owned, which provides general or special service to the public on a regular and continuing basis. *As long as the PUBLIC is afforded an equal opportunity to use the transportation service, §5311 subrecipients can use funds to maximize usage by transportation disadvantaged persons.* Non-urbanized area subrecipients use §5311 funds to transport to and from urbanized areas (in accordance with approved operating authority).

Private for-profit operators of transit or paratransit services may participate in the program through contracts with eligible subrecipients who provide public transportation in the rural areas to be served. The Office of Transportation Delivery is responsible to ensure that any private operator is qualified, will provide eligible service, can comply with Federal and State requirements, and is the best, or only, provider available to offer service at a fair and reasonable cost.

Providers of public transportation in urbanized areas who provide service to non-urbanized areas may participate in the 5311 program if the following guidelines apply:

- Financial assistance is available only for that portion of the service operated in non-urbanized areas;
- The applicant must be capable of segregating allowable operating and non-operating expenses incurred in providing service to non-urbanized areas; and
- The applicant must be one of the following eligible recipients or subrecipients:
    - Local governmental agencies:

    - A political subdivision of the State
    - Indian tribal government (both Federally recognized and other tribes)
- Transit Authorities (KRS 96A)
- Council of Governments (for planning/coordination only)
- Private non-profit operators of public services
- Private for-profit operators of transit services or intercity bus services may participate in the program as a third party contractors for eligible subrecipients who provides public transportation in rural areas to be served.

RTAP Section 5311(b) (3) – Rural Transit Assistance Program

KYTC Office of Transportation Delivery is the designated recipient for RTAP funds. The RTAP program is intended to provide training and technical assistance to Section 5310 and Section 5311 subrecipients and public providers in rural areas. Funds can be used to directly provide training and/or technical assistance with state staff, to contract with others for provision of training/technical assistance, to assist local entities with the cost of training available from other sources, and to develop local capabilities for self-help.

Section 5310 – Transportation for Elderly Individuals and Individuals with Disabilities

The goal of the Section 5310 program is to improve mobility for older adults and people with disabilities. Toward this goal, FTA provides financial assistance for transportation services planned, designed, and carried out to meet these special transportation needs in all areas--urbanized, small urban, and rural. The program requires coordination of federally assisted programs and services in order to make the most efficient use of Federal resources.

An applicant's service area will be defined in the application and verified by its governing board or county government(s) that the county has designated the agency as an entity to provide transportation for the elderly and people with disabilities.

During those periods when a vehicle is not needed for specific grant-related purposes, it may be used for services to other older adults and people with disabilities. After the needs of these groups have been addressed, the vehicle may be used for transportation of the public, on a space available basis, if such use is incidental to the primary purposes of the vehicle and does not

interfere with the use of the vehicle by older adults and people with disabilities.

Subrecipients are encouraged to coordinate their resources in order to maximize accessibility and availability of transportation services.

Eligible Activities

• At least 55% of program funds must be used on capital projects that are:

•Public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable.

• The remaining 45% may be used for:

• Public transportation projects that exceed the requirements of the ADA.

• Public transportation projects that improve access to fixed-route service and decrease reliance by individuals with disabilities on complementary paratransit.

• Alternatives to public transportation that assist seniors and individuals with disabilities.

Section 5311 Formula Grants for Rural Areas

Funds available from the Section 5311 program are dedicated to public transportation projects that serve rural areas of the state. Public transportation services that are provided with funding support from the program must be open to the public on a regular and continuing basis. Under the general service provisions which govern the program:

- An eligible transportation service may include the transportation of residents of the rural area to and from the nearest urbanized area or areas; Because of the wide range of circumstances under which an operator may provide services in both urbanized and rural areas, the subrecipient develops a plan, for allocating operating costs between the two FTA funding sources. Similarly, subrecipients that purchase vehicles under either the Section 5307 or 5311 program for use in any part of a combined urbanized and rural service area should ensure that it has capital replacement policies in place to

ensure that it is using program funds according to Federal eligibility requirements. KYTC/OTD will review and approve the cost allocation plan and/or polices.

- The service is designed for the general public but may be part of a coordinated project designed to maximize the usage of services by transportation disadvantaged persons; and
- Joint-funded Section 5307 and Section 5311 transportation projects are encouraged provided the level of 5311 funds allocated for service in the area is fair and equitable. This is usually demonstrated in the local subrecipients cost allocation plan.

The services provided under the Section 5311 grants shall primarily focus on the rural areas of Kentucky. This does not preclude service into urbanized areas of the state or into neighboring states (within a 50 mile radius) provided that the public resides in Kentucky and the trip originates from Kentucky.

"The purpose of the Section 5311 program is to support public transportation for people living in any area outside of an urbanized area designated by the Bureau of the Census. An urbanized area consists of a core area and the surrounding densely populated area with a total population of 50,000 or more, with boundaries fixed by the Bureau of the Census. Since the goal of Section 5311 is to enhance the overall mobility of people living in rural areas, Section 5311 projects may include transportation to and from urbanized areas (FTA C 9040.1F)." However, subrecipients are prohibited from providing exclusive service within an urbanized area. Public transportation providers are prohibited from providing public transportation services outside of their designed geographical service areas unless the purpose is to drop off and/or pick up passengers where the trip originated in the provider's service area. Whenever possible, subrecipients will coordinate service in areas where there is shared geographic service destinations. Any transportation services provided to destinations in-state and outside the state

must be in accordance with all applicable State (KRS 96A & 281) and Federal (FMCSA 49 CFR Parts 300-399) operating authority laws and regulations.

Section 5311 subrecipients must comply with all Federal/State requirements imposed by Federal Transit Administration and KYTC/OTD.

1. Eligible Assistance Categories

Section 5310

Funds for the Section 5310 program are available for capital expenses and operating that goes beyond ADA to support the provision of transportation services to meet the special needs of older adults and people with disabilities.

Applicants will not be considered if the primary need is for a vehicle to transport clients whose total transportation costs, including capital, are supported through other governmental funds. The applicant must certify that a requested vehicle will be available for use by other (non-client) persons who are elderly or have disabilities when not needed by the applicant.

Eligible project costs are defined in FTA Circular 9070.1G (as amended), however, the regulations permit the KYTC/OTD to further define those costs, which include, but are not limited to:

State Administration

Up to 10 percent of the State's total fiscal year apportionment is used to fund KYTC/OTD's program administration costs, that include staff payroll, travel, operating and supply expenses for Section 5310 including administration, planning and technical assistance. Program administration costs are funded at 100 percent Federal share.

Capital Assistance:

Funds for the Section 5310 program are available for capital expenses and to support the provision of transportation services to meet the special needs of elderly persons and persons with disabilities. Examples of capital expenses include, but are not limited to:

a. buses;

b. vans;

c. radios and communication equipment;

d. bus stop and passenger shelters/vehicle shelters;

e. wheelchair lifts and restraints;

f. vehicle rehabilitation; manufacture, or overhaul;

g. preventive maintenance, as defined in the National Transit Database (NTD);

h. extended warranties which do not exceed the industry standard;

i. computer hardware and software;

j. initial component installation costs;

k. vehicle procurement, testing, inspection, and acceptance costs;

l. automated vehicle locators, mobile data terminals, cameras;

m. lease of equipment when lease is more cost effective than purchase. Note that when lease of equipment or facilities is treated as a capital expense, the State must establish criteria for determining cost effectiveness in accordance with FTA regulations, "Capital Leases," 49 CFR part 639 and OMB Circular A–94, which provides the necessary discount factors and formulas for applying the same;

n. acquisition of transportation services under a contract, lease, or other arrangement. Both capital and operating costs associated with contracted service are eligible capital expenses. User-side subsidies are considered one form of eligible arrangement. The State, as recipient, has the option to decide whether to provide funding for such acquired services. Funds may be requested for contracted services covering a time period of more than one year. The capital eligibility of acquisition of services as authorized in 49 U.S.C. 5310(a)(3) is limited to the Section 5310 program;

o. the introduction of new technology, through innovative and improved products, into public transportation;

p. transit related intelligent transportation systems (ITSs); and

q. supporting new mobility management and coordination programs among public transportation providers and other human service agencies providing transportation. Mobility management is an eligible capital cost. Mobility management techniques may

enhance transportation access for populations beyond those served by one agency or organization within a community. For example, a non-profit agency could receive Section 5310 funding to support the administrative costs of sharing services it provides to its own clientele with other elderly individuals and/or individuals with disabilities or elderly individuals and coordinate usage of vehicles with other non-profits, but not the operating costs of service. Mobility management is intended to build coordination among existing public transportation providers and other transportation service providers with the result of expanding the availability of service. Mobility management activities may include:

(1) The promotion, enhancement, and facilitation of access to transportation services, including the integration and coordination of services for individuals with disabilities, older adults, and low income individuals;

(2) Support for short term management activities to plan and implement coordinated services;

(3) The support of State and local coordination policy bodies and councils;

(4) The operation of transportation brokerages to coordinate providers, funding agencies and customers;

(5) The provision of coordination services, including employer-oriented Transportation Management Organizations' and Human Service Organizations' customer-oriented travel navigator systems and neighborhood travel coordination activities such as coordinating individualized travel training and trip planning activities for customers;

(6) The development and operation of one-stop transportation traveler call centers to coordinate transportation information on all travel modes and to manage eligibility requirements and arrangements for customers among supporting programs; and

(7) Operational planning for the acquisition of intelligent transportation technologies to help plan and operate coordinated systems inclusive of Geographic Information Systems (GIS) mapping, Global Positioning System technology, coordinated vehicle scheduling, dispatching and monitoring technologies as well as technologies to track costs and billing in a coordinated system and single smart customer payment systems. (Acquisition of technology is also eligible as a standalone capital expense). [4]

KYTC/OTD does provide up to 10%, if available, state funds for matching assistance under the Section 5310 program. Local participation for capital acquisition will, at a minimum, be 10% of the costs.

[4] FTA Circular 9070. 1G
http://www.fta.dot.gov/legislation_law/12349_16011.html

Section 5311

The KYTC/OTD shall make funds available for capital, operating and administrative assistance to projects in non-urbanized areas. Operating project budgets will have priority over capital and administrative project budgets. The budget submitted by the subrecipient through the application process shall define the category and amount of funds the subrecipient wishes to receive. Any variation shall require prior approval from KYTC/OTD.

Eligible project costs under the Section 5311 Program shall be determined in accordance with OMB Circular A-87[5], and OMB Circular A-122. and 2 CFR PART 200 subparts A-F, FTA Circular 9040.1G (as amended)[6] and guidance issued by KYTC/OTD. Project expenditures shall be categorized as capital, operating, or administrative expenses.

State Administration, Planning and Technical Assistance

A maximum ten percent (10%) of the Section 5311 funds apportioned to the State of Kentucky can be used for state program administration that includes staff payroll, travel, operating and supply expenses, planning and technical assistance. These are 100% federal funds and are used to support KYTC/OTD personnel directly involved with Section 5311 program management and administration of public transportation. The balance of the apportionment is available to eligible recipients for capital, operating and at the discretion of OTD Administrative assistance.

Capital Expenses

Capital expenses include the acquisition, construction, and improvement of public transit equipment and facilities needed for an efficient and coordinated public transportation system. The federal share of eligible capital expenses is 80% and 20% local. Eligible capital expenses include, but are not limited to:

[5] http://www.whitehouse.gov/omb/circulars/a087/a87_2004.html
[6] http://www.fta.dot.gov/legislation_law/12349_15693.html

- Buses, vans, or other paratransit vehicles;
- Radios and communications equipment;
- Passenger shelters, bus stop signs, and similar passenger amenities;
- Wheelchair lifts, ramps, restraints and related vehicle modifications;
- Operational support such as computer hardware/software;
- Maintenance and/or service vehicles;
- **Preventive Maintenance.**
- Vehicle rehabilitation where candidate vehicles meet the extended useful life and rehabilitation cost limits established by the KYTC/OTD;
- Construction or rehabilitation of transit facilities including design, engineering and land acquisition;
- Construction of or improvements to park-and-ride lots where such facilities are served by public transportation or ridesharing modes that are a form of public transportation;
- Other durable goods such as spare components or parts (engines, transmissions, etc.) with a unit cost of $300 and a useful life of more than one year;
- Purchase of used equipment with the prior approval of the KYTC/OTD. The project must substantiate that the proposed purchase price represents fair market value and that the equipment is in sound working condition so the project can anticipate a reasonable period of remaining useful life and meet the requirements of the Americans with Disabilities Act;
- Facilities to provide access for bicycles to public transit facilities or equipment for transporting bicycles on public transit vehicles;
- Lease of equipment or facilities when leasing is more cost effective than purchase (when lease of equipment or facilities is treated as a capital expense the state will establish criteria for determining cost effectiveness, including non-economic factors such as management efficiency, availability of equipment, and staffing capabilities borrowing on guidelines stipulated in 49 CFR Part 639.
- The capital cost of contracting.[7]

[7] http://www.fta.dot.gov/legislation_law/12349_15693.html

Operating Expenses

Operating expenses are costs directly related to system operation. Eligible operating expenses include, but are not limited to:

- Fuel and oil;
- Salaries of drivers, mechanics, schedulers, dispatchers, security, and other personnel performing job duties supporting the system's overall operation.
- Operating Supplies and Materials
- Replacement tires;
- Replacement parts that do not meet the criteria for capital items;
- Maintenance and repairs;
- Administrative expenses such as Executive Director, Personnel Director/Manager, Secretary, Book keepers, Accounting, can be listed in a separate budget from the line item operating budget with an Administrative budget with federal 80% and 20% local match. Administrative expenses can also be included in the operating line item budget with a 50% federal and 50% local match
- Vehicle licenses and fees;
- Vehicle Insurance (either operating or administration); and
- The cost associated with the use of passenger escorts or driver's aides. However, these costs arise most frequently as a result of a mandate in the provision of a contracted service and should therefore be distributed to the contracting agency whenever feasible.

Net Operating Expenses

Net operating expenses are those expenses remaining after operating revenues are subtracted from eligible operating expenses. At a minimum, operating revenues include farebox revenues. Farebox revenues include fares paid by riders who are later reimbursed by a human service agency. The federal share of net operating expenses is up to 50 percent (50%) and the remaining percentage is the local share.

Operations Deficits

Federal funds may be applied to system operations deficits subject to the availability of funds. Federal participation allows up to 50% of the eligible net operating deficit (gross eligible operating expenses less revenue).

Income from Contracts with Human Service Agencies

Income from transportation service contracts with human service agencies utilizing FTA funds may be used (per Senator Leahy Federal Amendment-1986) to reduce the net project cost or to provide local match under Section 5311 operating assistance. Kentucky Medicaid non-emergency contract revenues may be used for match.

Local Share and Local Funding Requirements

The Commonwealth of Kentucky has not matched any operating expenses, incurred by §5310, §5311 agencies. Each agency must match 20% of all capital and 50% of all operating and administrative expenditures. KYTC/OTD can approve an administrative expense line item as 80% federal and 20% local. KYTC/OTD can match up to 10% of all capital expenditures under these programs. A sub-recipient may request toll credit match for capital. It is imperative that each agency discuss in detail in its application how it will provide a local match. All in-kind must be detailed and supported with documentation. Contract revenue or revenues received from human service delivery (per Senator Leahy Federal Amendment-1986) may be used to match Program funding.

Administrative Expenses

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

- Salaries and fringe benefits of the project director, secretary and bookkeeper, or other personnel performing job duties of an administrative nature;
- Administrative Office supplies and materials;
- Facilities and equipment rental (not lease-purchase);
- Vehicle insurance;

- Marketing;

- Professional services such as legal and accounting assistance;

- Interest on short-term loans to finance project administration or operating costs, with the prior approval of KYTC/OTD, due to a delay in the Federal apportionment of Section 5311 funds or where there are delays in KYTC/OTD's execution of the respective subrecipient's project agreements; and

- Indirect cost expenses may be eligible for reimbursement if a cost allocation methodology has been established and approved by the appropriate authority and KYTC/OTD.

- Administrative costs for promoting and coordinating ridesharing may be eligible if the activity is part of a coordinated public transportation program. The KYTC/OTD will limit the amount of Section 5311 funds an applicant applies toward administrative costs if the KYTC/OTD determines those costs to be excessive in relation to the service being proposed.

Ineligible Costs

OMB Circular A-87 defines items that are ineligible for reimbursement under all federal grant programs. Some of the items deemed ineligible are:

- Entertainment expenses;

- Fines and penalties;

- Interest expenses on loans (not previously approved by KYTC/OTD);

Additionally, the following transit-related expenses are ineligible for Section 5311 assistance:

- Depreciation accrued by public agencies on facilities or equipment purchased with federal funds (federal share only);

- Indirect transit-related functions or activities of local public governing bodies performed as a normal or direct aspect of public administration (e.g. expenses of a city council in considering transit matters);

- Contributions to a capital reserve account; and/or

- Expenses associated with the provision of charter services, thus warranting the maintenance of a separate account for charter expenses and income. (Profit derived from charter services may be used as part of the local matching share as long as the proper procedures have been followed).

Federal/State/Local Participation Ratio

Capital

	Section 5310	Section 5311		
Federal	Up to 80%	Up to 80%		
State	Up to 10%	Up to 10%		
Local	10%-20%	10%-20%		

Operating

	Section 5310	Section 5311		
Federal	N/A	50%		
State	N/A	0%		
Local	N/A	50%		

Administration

	Section 5310	Section 5311		
Federal	N/A	80%		
State	N/A	0%		
Local	N/A	20%		

Planning

	Section 5310	Section 5311		
Federal	N/A	80%		
State	N/A	0%		
Local	N/A	20%		

Local Funding Requirement

Generally, applicants must provide evidence of possessing the necessary fiscal and managerial capability to implement and manage the proposed project. Subrecipients must comply with all of the requirements contained in the KYTC Office of Transportation Delivery Application package under which the service proposal and funding request is submitted.

Eligible Local Match

A subrecipient cannot use Section 5310 or other FTA funds as match for Section 5311 program funds. Even though funds are made available to the rural transit provider through a service agreement with a State or local social service agency or private social service

organization, FTA funds may not be used as match because they are derived from a DOT program.

Local match includes local appropriations, service contracts, dedicated tax revenues, private donations, and net income generated from advertising, concessions, and incidental charter service income.

In-kind contributions (donations of equipment, supplies, property, and/or services that are beneficial and used by the applicant) must have a documented cash value. KYTC/OTD reserves the right to reject or disallow in-kind contributions as local share if the estimated cash value cannot be determined independently.

Funds documented as local match must originate from one or a combination of the following sources:

- Local government appropriation for cash;
- Cash contributions from other public or private sources;
- Non-DOT funds through a service agreement;
- Profits from charter services and advertising;
- Human Service Transportation Delivery contract revenue (Medicaid)

The following definitions apply in determining sources of local match:

- "Cash" - may include local appropriations, dedicated tax revenues, or profit generated from eligible charter services.
- "Cash Equivalent" - means a contribution/donation of some portion of the acquisition, construction, or improvement of public transportation facilities or equipment. Examples of such contributions would include the donation of land on which a public transportation facility was to be constructed. Such non-cash sources of local match are eligible only when the value is formally documented in accordance with the Common Rule (49 CFR Part 18 and Part 19-2 CFR Part 200, Subpart A-F).
- "Unrestricted Federal Funds" (including Title XIX) - those funds authorized by a federal agency (e.g. Health and Human Services) can be used as local match for Section 5311. The project applicants are responsible for identifying unrestricted funds because of their accountability by the other federal agencies involved. Subrecipients may use funds from other Federal agencies (non-DOT) for the entire local match if the other agency makes the funds available to the subrecipient for the purposes of the project.

Subrecipients may use funds from other Federal agencies (non-DOT) for the entire local match if the other agency makes the funds available to the subrecipient for the purposes of the project. **The only DOT funds that States can use as local match for Section 5311 projects are from the Federal Lands Highway Program cited in 49 U.S.C. 5311(g)(3).**

- "Donations, Volunteers, In-kind" - all are eligible as part of the "cash" share of the local match. Such non-cash sources of local match are eligible only if the value of each is formally documented and supported in accordance with 49 CFR Part 18.

- "Purchase of Service Agreement" - considered any agreement or contract between a Section 5311 service provider and a social service agency or organization (state, local, or private), whereby the social service organization purchases service for its clients at a price and according to terms specified in the agreement. Income from service contracts utilizing non-DOT funds to provide human service transportation may be used as farebox revenue.

Examples of non-Federal sources that may be used for any or the entire local share include:

- State or local appropriations; dedicated tax revenues;
- Human Service Transportation Delivery contract revenue (Medicaid);
- private donations; and
- net income generated from advertising and concessions.

Subrecipients may count non-cash shares such as donations, volunteered services, or in-kind contributions toward the local match <u>only if the subrecipient formally documents the value of each non-cash share, and if this value represents a cost that would otherwise be eligible under the project</u>. The net project cost must include the value of any in-kind contributions included in net project cost to the extent it is used as local match.

<u>Section 5310</u>

The State requires local match as indicated earlier from non-Federal funds for the Section 5310 programs. The applicant will certify as to the source and availability of the required match in their annual application for funding to the State.

<u>Section 5311</u>

As provided for under KYTC/OTD regulations, applicants requesting state funds to match Section 5311 Federal funds must provide to KYTC/OTD, evidence of the local share during the application process (e.g., letter of financial commitment signed by local governing board or body or other agency or business committing funds that will be used as local match).

KYTC/OTD may provide state funds as match under Section 5311 for Capital projects, the maximum state match will not exceed ten percent (10%), with the remaining ten percent (10%) being local match. KYTC/OTD does not match with State funds Operations, Administrative, and Technical Assistance expenses.

The eligible local share must be from non-DOT sources of funding and can include any local or state sources, unrestricted federal funds, and/or revenues from purchase of service contracts (counted as fares). Examples of local share funds include local appropriations, revenue sharing funds, dedicated tax revenues, and net income generated from programs such as advertising or incidental charter services. Funds received by operators who have an active service agreement with a state or local social service agency or a private social service organization may be used as local match. FTA funds (such as Section 5310) may not be used as match because they are derived from a DOT program.

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

Donations, volunteers, and in-kind contributions are eligible as part of the "cash" share of the local match. Such non-cash sources of local match are eligible only if the value of each is formally documented and supported. Title 49, Code of Federal Regulations, Part 18.24, provides guidance on this subject

Contra-Expenses

Contra-expenses are revenue items that directly offset transit expenses and, therefore, are eliminated from the expenses eligible for Section 5311 assistance. Some examples of contra-expenses are farebox revenues, interest income earned on working capital, cash discounts and refunds that directly offset accrued expenses, and insurance claims and reimbursements that directly offset accrued liabilities.

Use of Other Federal Funds

Local match may be derived from other federal programs that are eligible to be expended for transportation, other than funds from DOT programs. To be eligible for local match for FTA funds, the other federal funds must be used for activities included in the total net project cost of the project. Expenditure of other federal funds for transportation outside of the scope of the project cannot be applied as a credit for local match in the project. Specific program information for other types of federal funding is available at www.unitedweride.gov.

Some non DOT federal programs supporting transportation as listed by United We Ride are:

U.S. Department of Agriculture

- Food and Nutrition Service

U.S. Department of Education

- Office of Elementary and Secondary Education
- Office of Innovation and Improvement
- Office of Special Education and Rehabilitative Services

U.S. Department of the Interior

- Bureau of Indian Affairs

U.S. Department of Health and Human Services

- Health Resources and Services Administration
- Centers for Medicare and Medicaid Services
- Administration on Aging
- Substance Abuse and Mental Health Services
- Administration for Children and Families

U.S. Department of Housing and Urban Development

U.S. Department of Labor

- Employment Standards Administration
- Veterans' Employment and Training Service
- Employment and Training Administration

U.S. Department of Transportation

- Federal Transit Administration

U.S. Department of Veterans Affairs

- Veterans Benefits Administration
- Veterans Health Administration

Project Duration

Most project(s) expenses are for a period of 12-months from July 1 to June 30, unless a contract extension is requested by the subrecipient and approved by KYTC/OTD. Projects are funded on an annual basis with few exceptions. New programs may be considered for mid-year start-up and funding on a case-by-case basis and depending on the availability of federal and/or state funds.

Chapter 3: Project Selection Criteria and Method of Distributing Funds

Background

To identify potential recipients the State is assisted by regional transportation coordinators. There are coordinators in the western, ~~central~~ and eastern parts of the State. The coordinators work with most of the transportation-related agencies in their respective areas, and, thus, help OTD in identifying and assisting all potential recipients. In addition, these coordinators serve as the area coordinator for the §5310 program. Through joint efforts with the Section 5310 program, we are able to identify potential recipients for both programs.

Section 5310, 5311, program information is disseminated to potential recipients in various ways. A notice seeking proposals to participate in the §5310, §5311,-programs is published annually (each December or early spring) in statewide newspapers. However, it is noted that Sections 5310, will require a Coordinated Plan ("Public Transit Coordinated Plan") before applications for funding can be considered. Application Guidelines and Checklists have been prepared to assist applicants in applying for all funds. The application guidelines for § as Appendix C and §5311 guidelines are attached as Appendix A while the guidelines 5310 are

attached for the Public Transit Coordinated Plan is Appendix J. In addition, applicants are required to meet with all transportation providers (public, private, etc.) in their service area. A public hearing will be held if significant changes in services or fares to afford an opportunity for public comment. Awareness of public transportation is promoted with a public transportation conference, which is always heavily publicized and well attended. Also, regional coordinators assist in disseminating information to potential recipients. Project Managers will speak at various functions/meetings throughout the Commonwealth, which will allow opportunities to inform the public of these programs. When possible each Project Manager attends the public hearings and coordination meetings and works closely with each agency to ensure that each application is complete and submitted on time.

In addition to the Public Transit Coordinated Plan selection process for Sections 5310, the selection and internal review process involves several different personnel levels. The personnel levels include the Area Coordinator, Project Manager/Internal Policy Analyst, and the Public Transit Branch Manager/Staff Assistant, with final funding approval by the Executive Director of the Office of Transportation Delivery. If a potential subrecipient is eligible (i.e., a public State agency, local public body, transit authorities under KRS 96A or private-nonprofit organization), certain criteria have been met, and there are funds available, consideration will be given for funding assistance. Criteria considered include:

1. The need for the service(s),
2. Maintenance of Effort (MOE), fair and equitable
3. Efforts at coordination,
4. Financial and management capabilities, (unspent grants)
5. Locally developed Coordinated Plan Project Rankings
6. Quality of the operating plan, rider-ship projections and the amount of local support.
7. Correlate with regional coordination plan implementation strategies;
8. Address gaps in current service provisions for targeted communities;
9. Make use of available resources and leverage resources to the extent possible;
10. Facilitate coordination across public-private, inter-agency and geographic boundaries; and
11. Coordinate with other Federal and/or state programs;

The §5310 program is administered through a “Lead Agency/Coordinated Plan” process. The Lead Agency/Coordinated Plan is the applicant for all eligible agencies in a specific area or region and submits the application for the entire area. This allows the Cabinet to deal with several agencies/applications instead of over 100 while, at the same time, increases coordination opportunities. The majority of the Lead Agencies are “co-mingled” systems, i.e., they receive §5311 assistance and abide by all the regulations and requirements encompassing that program, including Title VI, DBE, EEO, etc. Once KYTC/OTD receives the application the Project Manager reviews the application for compliance with OTD/FTA rules and regulations. After the application review is complete, Project Manager refers to Local Coordinated Plan ranking criteria within the application. The Project Manager will determine if there are more requests for funding than funds available. If there are more requests for funding than funds available the Project Manager will develop his own rankings based on funding and available and performance measure such as long range feasibility and sustainability compared to other projects to ensure a fair and competitive process.

Section 5311 applicants for New Start must have completed a feasibility study which includes identification of estimated costs and funding options and must be approved by the Office of Transportation Delivery establishing the need for public transportation in the area. Areas considering public transit in their area may apply for funding for a feasibility study during the annual Section 5311 application cycle.

Continuing Section 5311 subrecipients are exempt from submitting any studies except in the event of a proposed major capital project. Continuing Section 5311 subrecipients complete a grant application and must demonstrate that they are eligible to continue to receive funding. However, because Section 5311 funds are used primarily for operations and the funds are critical to maintaining continuous services, KYTC/OTD generally considers Section 5311 subrecipients eligible for funding from year to year, unless the annual application, KYTC/OTD on-site review, or other circumstances demonstrate that an agency is no longer eligible. These circumstances

include, but are not limited to, an agency's transition from Section 5311 to Section 5307 funds, elimination of general public service, or determination by KYTC/OTD that an agency no longer meets state or federal requirements for receiving grant funds.

As the direct recipient of Federal funds, OTD will electronically submit an application for §5311, §5310, grant funds to the FTA Region IV Office in Atlanta for Federal approval. OTD will apply for Federal formula funding designated for Kentucky in the annual USDOT allocation published in the Federal Register. OTD will develop a Program of Projects as part of the overall §5311, §5310 grants submitted electronically. Applicants for funding assistance must be included in the grant's Program of Projects as a sub-grantee. New or unexpected projects can be added through a Federal grant amendment. As part of the Federal approval process. FTA will send, if applicable, notification to the U.S. Department of Labor for comments and approval. The Program of Projects includes information on unions in the sub-grantee transit areas.

Funding Criteria For Section 5310

The Section 5310 funds are available for reimbursement of expenditures incurred in association with approved capital expenses. The project application to the State must contain the necessary project supporting documentation as outlined in the Application Package and Instructions for FTA Section 5310 Capita1 Assistance Program (See Appendix C).

The following documentation is required**:**

- Applicant's request for equipment purchase or purchase of services;
- Information about the proposed project including Operating for projects beyond ADA;
- Certification of source and availability of the agency's, twenty (20%) percent local match, and sufficient operational funds; and
- Certification that all statutory and program requirements have been met.

Specific criteria will be published in the annual application for funding.

Funding Criteria for Section 5311

The Section 5311 funds are available for reimbursement of expenditures incurred in providing public transportation services in non-urbanized areas, applicants must meet the following conditions:

- Submit a completed application to the KYTC/OTD;
- Meet KYTC/OTD eligibility criteria as stated in Chapter 2 of this Plan;
- Application approved for funding; and
- Contract between the applicant and KYTC/OTD.

The project application to the KYTC/OTD must contain the necessary project supporting documentation as outlined in the *State Proposal/Application Packet and Instructions for the KYTC/OTD Section 5311 Program* (See Appendix A). At a minimum, applications for Section 5311 program funding shall consist of three parts:

- Project Description
- Project Budget
- Certification Requirement

The project description provides general descriptive information about the applicant and outlines what the public transportation program will accomplish and how it will approach the management of resources and operations. The project budget identifies anticipated budget based on line item for administrative, operating, technical assistance and/or capital items. The certification requirements are necessary to receive federal funds. The following application process should be adhered to while developing an application for public transportation assistance.

Project Description

The Project Description should outline the public transportation program operations and finances clearly and its relationship to the local and state public transportation goals. The Project Description serves as the basis for the application as well as an annual program operations report.

New applicants shall submit a completed feasibility study in addition to completing a formal application. A project description shall include the following:

- Description of agency mission, objectives and impact within the geographic area(s) to be served;
- Scope of Service;
- Description of routes, service and service frequency, ridership, farebox recovery and route mileage;
- Anticipated contracts for special services;
- Two- year projection of administrative, operational, three year capital
- Intended charter services in accordance with FTA's Charter Regulations;
- An explanation of how the proposed project compares to applicant's previous year's project;
- The impact of the proposed project (i.e. number of persons benefiting, expected achievements) and
- Description of public involvement.

Project Budget

A detailed project budget will be included with the application. Budget information will include but may not be limited to:

- Itemization of personnel, salaries, and fringes;
- Itemized budget expenditures for capital, operating and administrative needs; and
- Proposed revenues and matching funds arrangements

Certification Requirements

All applicants must include the-certifications and assurances listed in the attached Application Checklists in order to receive federal funds for the purpose of providing rural public transportation:

KENTUCKY TRANSPORTATION CABINET
OFFICE OF TRANSPORTATION DELIVERY
SECTION 5311 (CFDA #20.509) APPLICATION GUIDELINES
RURAL AREA FORMULA GRANTS
SFY 2015 APPLICATION CHECKLIST

AGENCY NAME/DBA (both) **DUNS#** **Congressional District**

PART I PLANNING & PROGRAMMING

	PAGE #	CABINET USE ONLY
1. Project Description		
-Updated Project Description (Routes, Fares, Hours, Days, etc.)	_____	_____
(Please include Rural Public, JARC, Appalachian, & Intercity Bus, etc.)		
-Appalachian Counties listed (if applicable)	_____	_____
-HSTD/NEMT Involvement/Participation	_____	_____
- Vehicle/Facility/Equipment Maintenance Plans	_____	_____
-Fixed Route/Supplemental ADA Paratransit	_____	_____
-Deviated or Flexible Fixed Route	_____	_____
-Demand-Response	_____	_____
-InterCity Bus Assurance and Description	_____	_____
-Incidental Services/Cost Recovery (Facilities, Charter, Meals, etc.)	_____	_____
-Updated Equipment/Rolling Stock/Real Property Inventory Listing	_____	_____
-Maps of Service Area for each service	_____	_____
-Operating Authority Certificate	_____	_____
-Articles of Incorporation/Transit Authority/Local Gov (current)	_____	_____
-Legal Name Form	_____	_____
-Updated Drug & Alcohol Policy	_____	_____
-List of Safety Sensitive Employees (w/o SS#)	_____	_____
-Low Income Population for Service Area	_____	_____
-Disabled Population for Service Area	_____	_____
-Training Conducted during current and one (1) past fiscal year	_____	_____
-Status of open 5311/5309/5339 capital projects	_____	_____

2. Project Justification

-Benefits/Changes/Impact _____ _____

-Personnel _____ _____

-Relationship to Community _____ _____

-Local Support Letters _____ _____

-Inaccessible Vehicle Purchase _____ _____

3. Project Budget(s)

-Separate Budget for each applicable service (operating, administrative, JARC, Appalachian, Intercity) _____ _____

-Separate Detailed Backup for Each Line Item on each budget _____ _____

-Explain Non-Emergency Medicaid Involvement in Detail _____ _____

-Indirect Line Item (Approved Non Profit Rate Agreement) _____ _____

-DBE/WBE Goal (5%) _____ _____

-In-Kind Backup Documentation/Justification _____ _____

-RTAP Needs & Budget(s) _____ _____

-Source(s) of Contract Revenue w/ Description of Service Provided_____ _____

4. Purchase Requirements

-Annual Equipment Certification _____ _____

-Agency Purchase Procedures (one-time only) _____ _____

-Vehicle/Equipment/Facility Specifications _____ _____

5. Planning

-Monitoring Agency(s) (Board, Commission, State, ADD, etc.) _____ _____

-Studies & Dates _____ _____

-Two One-Year Operating Budgets _____ _____

-Three One-Year Capital Budget _____ _____

-Population of Service Area by County _____ _____

-Community Development Projects Description _____ _____

PART II COMPLIANCE

1. Coordination Meeting

-Certified Mail/Returned Receipts _____ _____

-Providers Notified/Copy of Letter _____ _____

-Participants/Summary _____ _____

2. Public Hearing (If necessary)

-Copy of Advertisement/Proof of Publication _____ _____

-Participants/Certified Verbatim Transcript _____ _____

-LEP accommodations _____ _____

3. Private Sector Participation

-Dates/Early Notification/Consultation _____ _____

-Documentation

-Description of Proposals Received _____ _____

-Rationale for Inclusion/Exclusion _____ _____

-Methods for Periodic Service Review _____ _____

-True Cost Comparison Methodology _____ _____

-Complaints/Resolutions _____ _____

-Written Local Complaint Process _____ _____

4. Intergovernmental Review

-First-Time Applications _____ _____

5. Civil Rights Assurances

-One Time Title VI Documentation _____ _____

-Annual Civil Rights Assurance _____ _____

-Affirmative Action Plan (50 or + employees) _____ _____

-LEP Access Plan

_____ _____

6. Protection of Environment

-Statement _____ _____

7. Elderly and Persons with Disabilities

-Hearing (if service for disabled changed) _____ _____

-One Time 504 Certification _____ _____

-Status Report on Service for Disabled **DUE FY17** _____ _____

-Disabled Assurance _____ _____

-ADA Equivalent Service Certification _____ _____

8. Charter/School Bus Operations

-Nonapplicable Certification _____ _____

-Compliance Certification _____ _____

9. Opinion of Counsel

-Current Letter from Counsel _____ _____

10. Labor

-Letter to KYTC _____ _____

11. Authorizing Resolution

-Executed Resolution _____ _____

12. Local Share Resolution

-Executed Resolution _____ _____

13. Standard Local Assurances

-Executed Assurance _____ _____

14. Listed Regulatory Assurances

-Executed Assurance _____ _____

15. DBE/WBE Policy Statement

-Executed Statement _____ _____

16. Drug Free Workplace Act

-Executed Certification _____ _____

17. Lobbying Certification

-Executed Certification _____ _____

18. Incidental Services Certification

-Executed Certification _____ _____

19. Federally Required and Model Contract Clauses

- Signed Signature Page #52 _____ _____

20. Transit Agency Safety Plan Certification

-Executed Certification _____ _____

_____	_____	_____
Agency Signature	Title	Date
_____	_____	_____
State/OTD Project Manager Signature	Title	Date

**All elements must be checked or marked N/A by the Project Manager for an application to receive State and Federal approval.

Project Selection and Evaluation Criteria

All applications under the Public Rural Transit Program (Section 5311) are reviewed first by the Project Manager reviewing grant completeness of application, assessing transit needs and previous year performance. A baseline formula may be utilized. The formula may include, but not limited to: ridership, mileage, fleet, rural counties served/population, and economically deprived counties. Annual adjustments can be made based on such factors as excess revenues, unspent funds, fixed routes/para transit services and financial needs. ~~.~~

Funds made available under Section 5311 should augment rather than replace existing sources of transportation funds.

Method of Distributing Funds

KYTC/OTD shall make funds available for capital, operating and administrative, planning assistance to projects in rural areas. The budget submitted by the subrecipient through the application process shall define the category and amount of funds the subrecipient wishes to receive. Any variation shall require prior approval from KYTC/OTD.

Approved subrecipients have funds disbursed on a reimbursement basis. Invoices are submitted to KYTC/OTD on a monthly basis at a minimum for Sections 5310 and 5311 approved expenses. Capital expenses are reimbursed to the subrecipient at approved federal or state share once the capital has been received and is verified as operational by the subrecipient or KYTC/OTD, as appropriate. All funds paid to recipients for expenditures are on a reimbursement basis only. KYTC/OTD may allow, on a case by case basis, state reimbursement simultaneous with a wire transfer to the vendor, with the coordination of the transit systems banking institution.

Eligible project costs under the Section 5311 Program shall be determined in accordance with OMB Circular A-87-A122, 2 CFR Part 200, Subparts A-F, FTA Circular 9040.1~~F~~ G (as amended) and guidance

issued by FTA/KYTC. Project expenditures shall be categorized as capital, operating, or administrative expenses.

State Administration and Technical Assistance

Each program allows a percentage of the apportioned funds to be used by the state to administer a program for costs including administration, planning and technical assistance. The amounts allowed for state administration of each program are:

- Section 5310 - up to 10%
- Section 5311 - up to-10%

FTA allows all or a portion of the administrative funds for §5310, to be combined to support activities (such as coordinated planning) that are common to all three programs. KYTC/OTD may combine program administration funds into one administrative account, so long as use is associated with administering §5310, §5311, programs.

Section 5310

Section 5310 funding guidelines are based on an equal weighted average of the elderly/disabled populations within a region as percentages of the state's overall elderly/disabled populations.

Deobligated Funds

Funds that are deobligated from an approved program of projects remain available to KYTC/OTD and subrecipients for reobligation during the period that the funds were originally available to KYTC/OTD.

If deobligated funds from a program are available at the close of the project year, KYTC/OTD considers previously identified "alternate" projects as approved by the KYTC/OTD during initial allocation as well as special requests from subrecipients. Requests must be in writing. Allocation of deobligated project funds is limited to the availability of funds.

Transfer of Federal Funds

The Governor of the Commonwealth of Kentucky or his designee (KYTC/OTD) may transfer funds from the §5307 Program from non-urbanized areas under 200,000 population. Funds from the §5311 Program

may also be transferred to §5307 systems with populations under 200,000. The Transportation Cabinet staff will determine the need for flexibility to utilize both funding sources. KYTC/OTD will consult effected area transit providers when considering transfer decisions. When §5307 funds are transferred to §5311, all §5311 requirements apply. KYTC/OTD may transfer §5310 to the §5311 or §5307 programs if the funds will remain un-obligated at the beginning of the 90-day period before the end of the Federal fiscal year. Surface Transportation Programs (STP), congestion Mitigation and Air Quality (CMAQ) funds, and other eligible flexible funds may be transferred from the Federal Highway Administration to the §5311 or §5310 programs for capital needs. Cabinet staff would make this decision with local area transit providers, the area MPO, and the State Highway Engineer's office with the Cabinet Secretary having the final approval. All contractual, procurement and payment procedures would be according to State and Federal guidelines. Notification to FTA of the intent to transfer funds will be in accordance with FTA Circulars 9040.~~F~~-1G-proposed and 9070.1~~F~~G. KYTC/OTD will follow all of the requirements of 9040.1F regarding the transfer of funds.

Intercity Bus Program

KYTC/OTD shall program 15% of the Section 5311 funds (not including RTAP or Appalachian) for the Intercity Bus Program. KYTC/OTD as needed will consult with private intercity operators. KYTC/OTD will evaluate the need and continue to assess the Kentucky Greyhound abandoned lines. KYTC will continue to review the transit applications for the intercity bus mobility needs and funding requests. Both operating and capital intercity bus funding request are eligible. KYTC/OTD Project Manager will assess the intercity bus needs in their respective areas and recommend to the Public Transit Branch Manager/Staff Assistant the funding requests.

State Rural Transit Assistance Program (RTAP)

SECTION 5311(b) (2)

The Rural Transit Assistance Program (RTAP) is a broad and flexible program of training, technical assistance, research, and other support services for non-urbanized area operators. It provides a source of funding to assist in the design and implementation of training and technical assistance programs tailored to meet

the specific needs of non-urbanized transit operators. Providers of specialized transportation and public transit operations in urbanized areas may participate in RTAP sponsored activities, as long as the designed activities benefit rural transit providers. The objectives of RTAP are:

1. To promote the safe and effective delivery of public transportation in rural areas;
2. To make more efficient use of public and private resources;
3. To foster the development of state and local abilities to address the training and technical assistance needs of the rural transportation community;
4. To improve the quality of information and technical assistance available through the development of training and technical assistance resource materials;
5. To facilitate peer-to-peer self help through the development of local networks of transit professionals;
6. To support the coordination of public, private, specialized, and human service transportation services; and
7. To build a national data base of the small urban and rural public transportation industry.

This program may finance the transit employee in attending conferences, workshops, in or out-of-state training sessions, and direct technical assistance. KYTC/OTD can incorporate new training programs into the program schedule as the schedule permits.

KYTC/OTD administers RTAP funding through a selection committee. RTAP Committee is comprised of Office of Transportation Delivery Executive Director, one KYTC/OTD employee, and a member of each of the five Kentucky RTAP regions. Appendix B contains a map of the five RTAP regions. The Kentucky Public Transit Association votes upon committee selection every two years. RTAP Committee meets and determines the selection criteria, local match requirements, and is the decision making body in determining project selection.

Any applicant wishing to complete an RTAP application must comply with the guidelines and directions detailed in Appendix B.

Chapter 4: Annual Program Development and Project Approval

KYTC/OTD has simplified the application process. The application packages are also available in electronic format via the Internet. Since most subrecipients have access to the Internet, the distribution of application package has greatly improved.

KYTC/OTD utilizes all of its program funds under the appropriate program. However, during the project development stage, KYTC/OTD staff shall identify all other program funds that have not been obligated.

Background

KYTC/OTD makes an annual program announcement for all programs in the month of December or early Spring. KYTC/OTD also updates all member agencies of the Kentucky Public Transit Association during quarterly meetings. The program period of performance is based on the State Fiscal Year (July 1 – June 30). The announcements provide information on available funds and solicit applications from eligible subrecipients. The review of all applications occurs after the closing date which is April 1st of each year.

The annual program of projects is approved by the KYTC/OTD and these approved projects shall serve as the basis for the State Transportation Improvement Plan (STIP) update as well as the State's annual application for funds to the Federal Transit Administration (upon STIP approval).

The program of projects shall identify each local subrecipient approved to receive funds for that year, inclusive of a brief description, funding level (federal and non-federal), and the amount of funds identified for state administrative expenses and intercity bus as applicable.

KYTC/OTD application to FTA can include three (3) categories in the program of projects:

- Projects in **Category A** will include those applicants certified as having met all the statutory and administrative requirements necessary for project approval.

- Subrecipients in **Category B** will include those projects, which KYTC/OTD intends to fund during that fiscal year, but have not yet met all the statutory and administrative requirements of the respective Programs.

- **Category C** will represent the State's program reserve with an amount, not to exceed ten (10%) percent of the total amount of the state's annual apportionment, to be used for unanticipated project and program needs, approved new projects or budget adjustments.

KYTC/OTD routinely strives to allocate all available funds under Category A and to avoid using Category C.

Notice of the Availability of Funds

The statewide announcements for Sections 5305, 5307, 5339, 5310, and 5311 are widely disseminated through various methods, to include:

- Existing public transportation providers;
- County government administrators;
- Metropolitan Planning Organizations (MPOs);
- Other local planning agencies;
- Kentucky Public Transportation Association
- Other interested agencies and operators of public transportation service; and
- Internet via the KYTC/OTD and KPTA website.

Public Hearing Requirements

The Notice and Public Hearing requirement for capital projects that could substantially affect a community or the public transportation service of a community under 49 USC Chapter 53, Section 5323 (General Provisions) was repealed under MAP-21. It is no longer a requirement for Capital projects. However, there are other requirements for a public hearing as part of the environmental review process and various planning processes. Section 5307 small urban systems can follow the procedures of the public involvement process of the Metropolitan Planning Organization (MPO) to satisfy the public participation requirements associated with development of the Program of Projects that recipients of Section 5307 funds must meet Section 5311 must still have a public hearing for any fare increase or for major service changes.

The law associates more clearly the public involvement and hearing requirements for capital projects with the environmental review required by the National Environmental Policy Act (NEPA) and its implementing regulations. It also broadens the requirement to apply to all capital projects (as defined in 49 U.S.C. 5302).

Now, the applicant must provide an adequate opportunity for public review and comment on a capital project, and, after providing notice, must hold a public hearing on the project if the project affects significant economic, social, or environmental interests. These requirements will be satisfied through compliance with the NEPA requirements for a public scoping process, public review and comment on NEPA documents, and a public hearing on every draft environmental impact statement (EIS).

A public hearing on environmental assessments (EAs) that have a high probability of being elevated to EISs is also required, ensuring that the applicant has complied with the public hearing requirement to include in the environmental record for the project.

Public Notification

KYTC/OTD publicly advertises availability of funds to potential applicants by notifying potential applicants by letter, through the Office of Transportation Delivery and KPTA web sites and through a publication having general circulation across the state. Transit agencies are required have public hearings/coordination meetings on their application for funds in their communities.

Application Review and Approval Schedule

The State's annual announcements shall provide a schedule of dates for application submittals and review by KYTC/OTD staff, recording of the approval date by KYTC/OTD Commission, and the State's submission of the respective program of projects to FTA for review and approval.

The general application review and approval schedule for applications:

April 1st	Receipt of all proposals
April/May	Proposals reviewed by KYTC/OTD;

May 30th	Project Manager Recommendations submitted to Branch Manager/Executive Director for review
May/June/July	Contract Preparation and Release

FTA Approval

Upon approval or pre-award authority by FTA of the State's program of projects, and after a subrecipient application review and approval, OTD staff will transmit, under the cover letter of project authorization, one copy of approved grant agreement(s) for execution by the subrecipient. Each agreement shall contain:

- The approved project budget;
- The detailed scope of services to be performed in accordance with the budget; and
- Required federal and state contract provisions and regulations (Terms and Conditions).

The subrecipient should review and execute the agreements, returning original copy to the KYTC/OTD with a due date as prescribed in the cover letter. KYTC/OTD will sign the original contract and forward an executed copy of the contract to the subrecipient.

Certifications and Assurances

Subrecipients must annually assure the KYTC/OTD that they meet certain requirements.

Each fiscal year, FTA publishes the required certifications and assurances in the *Federal Register* and updates the certifications and assurances in the TEAM system. This notice indicates which certifications and assurances apply to all grantees and subrecipients.

Subrecipients will submit the appropriate original signature certifications and assurances each fiscal year for all programs for which they will be funded. Subrecipients should use the most recent version of certifications provided by KYTC/OTD during the annual application process. No contracts will be authorized until required signed certifications and assurances have been submitted and reviewed by KYTC/OTD.

Period of Performance

The period of performance for contracts will be based on the State's Fiscal Year of July 1 – May/June 30. Contract extensions requests must be submitted to the Office of Transportation for consideration and will be considered on a case-by-case basis.

KYTC/OTD may establish different periods of performance for projects that are programmed for funding but have not yet met all the statutory or administrative requirements of the programs (Category B) pursuant to applicable FTA Circulars.

Chapter 5: LOCALLY DEVELOPED, COORDINATED PUBLIC TRANSIT and HUMAN SERVICES TRANSPORTATION PLAN

State Program Coordination

Introduction

Title 49 U.S.C. Chapter 53 is the legislation that governs public transit. 49 U.S.C. 5304 mandates that KYTC incorporate transit projects into the State Transportation Improvement Program (STIP); and develop a transit element in the Statewide Transportation Plan. Additionally, KYTC/OTD has developed a Human Service Transportation Delivery plan to coordinate services between different Commonwealth agencies. It is a goal that a Coordinated Public Transit Plan should promote continuing, cooperative, and comprehensive planning that improves the performance of the transportation network.

Human Services Transportation Coordination

The Human Service Transportation Delivery Branch is responsible for the oversight of the HSTD program. The HSTD program consolidates transportation services previously provided by various state governmental agencies. Formerly, a voucher system was used which proved fragmented and increasingly costly, and was vulnerable to fraud and abuse. In addition, transportation services were not easily accessible in some rural areas and non-existent in other areas. The services are now under the auspices of the KYTC, Office of Transportation Delivery, who ensures a safe, efficient, and reliable service by utilizing resources from both HSTD and Public Transportation. The commonwealth now contracts with ten brokerages across the Sate through a Request for Proposal process whose responsibility is to provide scheduling and transportation services. Rather than having five recipients transported in five separate vehicles to the same geographical location then issuing five separate payments, the Commonwealth now issues one check to a broker who sends one driver and one vehicle by coordination of Human Service Transportation resources and Public Transportation resources.

The HSTD program is providing quality services, curbing fraud, waste, abuse, and streamlining costs. Prior to coordination, non-emergency medical transportation had increased an average of 22.3% each year, or

cumulatively, grew 270% between 1991 and 1998 without expanding services. After coordination, early program results reflected cost containment as well as an increase in the use of the system by recipients. More trips at less the cost! The goal of providing safe, affordable, and coordinated transportation is continually being realized today with partnerships that include the Department for Medicaid Services, Office of Vocational Rehabilitation and Office of the Blind. OTD aggressively pursues additional partnerships to increase access to transportation for citizens of the Commonwealth. Possible future partners include the Department of Aging and Independent Living, Veteran groups, and recipients participating in Department for Medicaid Services' Money Follows the Person program.

A 1996 Actuarial Study Report predicted cost would be over $60 Million by 2002 under the old voucher system in the non-emergency medical transportation program alone. In 2007, by using coordination through the existing brokerage system, cost has been contained at $55 million, while increasing rider-ship.

Kentucky's coordinated brokerage services have proven to be a success since implementation. Kentucky is now a nationally recognized leader in the coordination of Human Services Transportation.

Section 5310 Coordination Plan Development

Multiple local coordinated plans are utilized to reflect the most cost-effective~~ness~~ and efficient options 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. The Office of Transportation Delivery will help to provide the tools, support the plan in funding, and give guidance throughout the planning stages.

The Office of Transportation Delivery has implemented the following:

- Reporting requirements: of expenditures, ridership,

    1. Line Item Budget
    2. Monthly Statistical Report
    3. Drug and Alcohol Testing Report
    4. Quarterly Statistical Report (5310) for each vehicle

- Conduct site visits

As our population ages and is increasing in size due to better health care service, changes need to happen in Public and Human Service Transportation to better service the changing community needs. The State of

Kentucky is moving forward to coordinate the bringing of 120 counties together to better serve the communities in transportation.

The Kentucky Public Transit Coordinated Plan for 5310 shall contain the following items:

Project Evaluation and Selection

Once KYTC/OTD receives the application the Project Manager reviews the application for compliance with OTD/FTA rules and regulations. After the application review is complete, Project Manager refers to Local Coordinated Plan ranking criteria within the application. Projects/and or subrecipients selected are to be included in a locally developed, coordinated public transit-human services transportation plan; and (ii) the plan described in clause (i) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers and participation by other members of the public; and (iii) to the maximum extent feasible, the services funded under this section will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services.

The Coordinated Plan must be updated every 4 years. OTD will determine if there are more requests for funding than funds available. If there are more requests for funding than funds available the OTD will develop rankings to ensure a fair and competitive process.

Chapter 6: Project Financial Management

Background

As primary recipient of FTA funds and as the State agency designated to administer such funds for public transit activities in Kentucky, KYTC/OTD will manage the fiscal elements of these programs in accordance with its existing procedures, FTA guidelines, and other applicable state and federal regulations.

Project Identification

All projects included in the annual program of projects shall be assigned a project number per contract for use as identification purposes.

Pre-award Requirements

Upon initial approval of an applicant for inclusion in the Program of Projects, the KYTC/OTD shall review each project for the following:

- Determine that the subrecipient's accounting system is adequate and capable of segregating, accumulating, and maintaining allocable and allowable costs as they apply to the project and/or contract and to document necessary facts that might be needed in past audits;
- Establish that proper record retention will be maintained after project completion (record retention shall be required for a three (3) year period after payment of final billing or completion of the project, whichever occurs last);
- Establish procedures or issue any necessary specific instructions to the project that would help prevent any future misunderstanding;
- Establish that proposed costs are reasonable and in line with those that the subrecipient is currently incurring;
- Establish that the subrecipient has the financial capability to perform the services required.
- Determine that the applicant has an inventory procedure to assure that equipment purchased with federal and/or state funds can be accounted for at any time (documentation of the inventories should be on file at all times); and
- Assure that the applicant can comply with the provisions of OMB Circular A-133/2 CFR PART 200, Subparts A-F.

- Assure that applicant's policies are in compliance and current with Civil Rights, including Title VI, EEO, DBE, and ADA.

Establishment of Project Accounts

Standards for Accounting

The KYTC/OTD and recipient shall establish and maintain, as a separate set of accounts, or within the framework of an established accounting system, accounts for the project in the manner consistent with Office of Management and Budget (OMB) procedures. The KYTC/OTD and the recipient must establish and maintain an adequate financial management system that provides for:

1. Accumulation and reporting of accurate, current and complete financial information for each grant.
2. Records that identify the source and application of funds for grant-supported activities.
3. Control and accountability for all funds, property, and other assets, including safeguards against unauthorized use.
4. KYTC/OTD will compare the actual outlays with budgeted amounts for each grant funded.
5. KYTC/OTD will assure the shortest elapsed time between U.S. Treasury deposits and KYTC/OTD disbursements.
6. Recipient must comply with, A-133/2 CFR Part 200, Subparts A-F and the following procedures for determining reasonableness, eligibility, and proper allocation of costs:
   a) OMB Circular A-87 revised "Cost Principles for State and Local Government"
   b) A-122 "Cost Principles for Nonprofit Organizations"
   c) Common Rule 49 CFR Part 18; Uniform Administrative Requirements for Grants and Cooperative Agreement to State and Local Government;
   d) Common Rule 49 CFR Part 19; Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations.
7. Source documentation must support accounting records.
8. Procedures that assure timely and appropriate resolution of audit findings and recommendations.

9. The KYTC/OTD and the Recipient must meet the following accounting system standards:
   a) The accounting system must be complete and reliable. It must embrace and accurately represent the status of all funds, property, assets and liabilities, obligations, receipts and revenues, expenditures and costs.
   b) Recipient must support and show documentation for financial transactions in the recipient's files with pertinent documents available for audit. All transactions must be recorded when made, and in a way that readily permits them to be traced from originating documents through summary records and financial reports.

Requests for Payment

Before a subrecipient may begin requesting funds, an application must be approved and on file, and an agreement must exist between the subrecipient organization and the KYTC.

A subrecipient shall submit invoices on forms and in a manner prescribed by the KYTC/OTD.

Upon receipt of a Request for Payment Invoice, the KYTC/OTD and Division of Accounts will fully examine the invoice to verify that all applicable requirements are met.

Revisions and Amendments to the Approved Contract

During the course of the contract it may become necessary to make modifications to the project in the form of budget revisions, or contract amendments.

KYTC/OTD Contract Amendment:

A change in the scope or purpose of a contract or the federal and/or state participation.

Requirement - A contract amendment is required when proposed changes in the contract would:

- Alter the scope or purpose of the approved project; or
- Require an increase in the project amount or a change in the federal/state/local matching ratio.

Change of Scope or Purpose - The scope or purpose of a contract is changed by any of the following circumstances:

- Changes in the scope that will involve an increase in the federal and/or state financing of the project; or
- Adding or deleting a project budget category from the contract; or
- Changes to the size, or physical characteristics of items being purchased that are originally under contract; or
- Changes that will increase or reduce the number of units to be purchased or constructed where the change exceeds the greater of one unit or 10 percent of the number approved in the line item; or
- Changes that will extend the period of availability of funds; or
- A change that the KYTC/OTD concludes is significant which modifies a category, project description, or the size of items specified in any contract.

Budget Revision

Changes may be made in the form of a budget revision in the purpose, scope and amount of the contract will remain consistent with the applicable Approved Project Budget. This may include a transfer of funds between or among budget categories within an approved contract. A budget revision cannot be used to change the purpose, scope, total dollar amount or terms and conditions of the contract. The subrecipient may not make budget revisions without the prior approval of KYTC/OTD.

Procedures

Recipient must follow these procedures for any contract change or budget revision.

- All requests for contract amendments or budget revisions must be submitted in writing to KYTC/OTD along with appropriate justifications.

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- KYTC/OTD shall notify the subrecipient in writing regarding approval, modification, or rejection.
- In order for Contract Amendments to be effective, it must be fully executed by both the agency and KYTC/OTD.

Close-Out and Audit Procedures

Contract Closeout

Grant projects are closed at the end of the contract period. The Project Manager, Branch Manager, Staff Assistant and Executive Director will determine at what point a project is ready to close. Fiscal staff is directed to close out the project on the EMARS system. When a capital 5310/5311/5309/5339 project has reached the end of the contract period and there is a balance of funds, the Project Manager will prepare a letter to the transit

system stating that this project will be closed. In some instances, capital contracts may be extended by six (6) months/or longer with sufficient justification and documentation from the transit system. The decision to extend the period of a grant will be made by the Project Manager, the Branch Manager/Staff Assistant, and the Executive Director. A contract amendment will be necessary to extend the period of a contract. All close-out documentation should be maintained in the Project File. In case of a finding of overpayment as a result of the audit report, the Project Manager will seek a refund from the transit system. The Executive Director will direct fiscal staff to process the refund within the EMARS system and the appropriate grant fund. These funds are immediately re-programmed within the federal grant scope.

Throughout the grant year, the Project Manager will monitor all revenue earned by a transit system. At the end of the Section 5311 operating grant year, the Project Manager must determine whether all revenues earned by the system have been properly documented and utilized or whether a refund of federal funds is required. Any excess contract revenue must have OTD approval to be placed back into the subgrantee's system for "mass transit purposes only." It is preferred for transit agencies to maintain sufficient cash and /or receivables to pay obligations and demonstrate Operational Financial Stability (OFS). The first three months of each fiscal year (July-August-September) normally include higher expenses due to annual cost such as insurance.

The total amount of transit operating expenses from the first three months of the grant's past year will be used to determine the agency's Operational Financial Stability (OFS). The total (before farebox) amount of transit operating expenses incurred during the previous year (July-August-September) will be the amount of excess revenues, if available, to maintain solvency or OFS. Section 5311 federal operating dollars may not be accessed until a transit agency's excess revenues are equal to or less than OFS amount. Any excess revenues carried forward must have written approval from KYTC/OTD.

Section 5311 financial assistance is to assist areas that have a "demonstrated financial need."

Capital projects are not closed by OTD until the equipment has met its useful life (vans 100,000 miles or 4-years or older). There are three "close outs" recognized

(1) State "subgrantee" close out per project period;

(2) State/Federal Close out recognized by FTA. Federal approval is required after an entire grant is closed; and,

(3) Final State close-out: This recognizes all equipment in a grant. The retention period has been met and all files are archived or disposed.

Audit

The KYTC/OTD and recipient shall permit the Secretary and the Comptroller General of the United States or any of their duly-authorized representatives to inspect all work, materials, payrolls, and other data and records with regard to the project, and to audit the books, records, and accounts of the KYTC/OTD and recipients with regard to the project. To the extent the charges for such audits are necessary for the administration and management of functions related to the project, the costs of such audits are allowable. KYTC/OTD and recipients shall comply with the Single Audit Act Amendments of 1996 and OMB Circular A-133/2 CFR Part 200, Subparts A-F.

Each recipient must submit two copies to KYTC/OTD by March 31st of each year or thirty days after the completion of the OMB Circular A-133 Audit whichever comes first. KYTC/OTD will log each audit received and submit the audit report $750,000 to Division of Internal Audits to perform a desk review in accordance with generally accepted auditing practices. OTD will conduct a financial and grant review of the audit report. If a finding is found, by Internal Audits or OTD, a letter or follow-up asking for an explanation on the findings will be made. The Federal Audit Clearing House (FAC) must receive a copy by March 31, of each year or 30 days after completion of the report, whichever comes first. The Office of Transportation will go by the Audit Report date (letter the auditor issued the report) unless otherwise documented to the actual date the transit agency had receipt of the audit report submitted to the transit agency from their Independent Auditor. The thirty days will begin from the Audit Report Letter issued.

Chapter 7: Procurement and Third Party Contract Management

Procurement Options Through the State of Kentucky

Each step of the procurement process must be reviewed and approved by OTD before the subrecipient can proceed with the next step. OTD will have final approval on the quote/bid/proposal award.

I. METHODS OF PROCUREMENT CAPITAL PURCHASES
Reference FTA Circular 4220.1F

As a one-time submission, subrecipients will submit their Board/Commission-approved Procurement Procedures and any revisions thereafter. OTD will review and approve for compliance with Federal procurement regulations and State law (KRS 45.A).

A. *Procurement by Small Purchases.* Small purchase procedures are those simple and informal procurement methods that are used to secure services, supplies, or other property that do not cost more than $ 20,000 (state maximum-KRS 45.385A) or $150,000 (federal maximum).

B. *Procurement by Sealed Bids.* Contracting party shall solicit all bids publicly and shall award a firm-fixed-price contract to the responsible bidder whose bid is the lowest in price.

1. The following conditions should be present:
    a) A complete, adequate, and realistic specification or purchase description is available;
    b) Two or more responsible bidders are bidding and able to compete effectively for the business;
    c) Price is the basis for awarding a fixed-price contract.
2. The following requirements apply:
    a) The invitation for bids will be publicly advertised and bids shall be solicited from at least two but three are encouraged to known suppliers;
    b) The invitation for bids shall define the items or services sought;
    c) All bids will be publicly opened at the time and place announced in the invitation to bid;
    d) A fixed-price contract award will be made in writing to the lowest responsible bidder; and
    e) Contracting party shall reject any bid if there is a sound documented reason.

C. *Procurement by competitive proposal.* Contracting party shall use this procedure when conditions are not appropriate for the use of sealed bids. The following requirements apply:

1. Requests for Proposals (RFP) will be publicized and all evaluation factors and their relative importance will be identified;
2. Proposals will be solicited from at least three qualified sources;
3. The KYTC/OTD and recipient will have a written procedure for conducting technical evaluation of the proposals received and for selecting the firm;
4. A firm, whose proposal is most advantageous to the KYTC/OTD or recipient's program, will receive an award.

D. Architectural Engineering (A&E) Services and Other Services. FTA's enabling legislation at 49 U.S.C. Section 5325(b)(1) requires the use of the qualifications-based procurement procedures contained in the "Brooks Act," 40 U.S.C. Sections 1101 through 1104, to acquire A&E services, but also for program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping and related services. The nature of the work to be performed and its relationship to construction, not the nature of the prospective contractor, determine whether qualifications-based procurement procedures may be used as described below.

a) Qualifications-Based Procurement Procedures Required. The recipient must use qualifications-based procurement procedures not only when contracting for A&E services, but also for other services listed in 49 U.S.C. Section 5325(b)(1) that are directly in support of, directly connected to, directly related to, or lead to construction, alteration, or repair of real property. For example, a contractor performing program management, project design, construction management, or engineering services in which that contractor would select the finished products to be acquired for an FTA assisted construction project must be selected through qualifications-based procurement procedures.

b) Qualifications-Based Procurement Procedures Prohibited. Unless FTA determines otherwise in writing, a recipient may not use qualifications-based procurement procedures to acquire other types of services if those services are not directly in support of, directly connected to, directly related to, or do not lead to construction, alteration, or repair of real property. Even if a contractor has performed services listed herein in support of a construction, alteration, or repair project involving real property, selection of that contractor to perform similar services not relating to construction may not be made through the use of qualifications-based procurement procedures.

A project involving construction does not always require that qualifications-based procurement procedures be used. Whether or not qualifications-based procurement procedures may be used depends on the actual services to be performed in connection with the construction project. For example, the design or fabrication of message signs, signals, movable barriers, and similar property that will become off-the-shelf items or will be fabricated and delivered as final end products for installation in an FTA assisted construction project are not services for which qualifications-based procurement procedures may be used. Nor is actual construction, alteration,

or repair to real property the type of services for which qualifications-based procurement procedures may be used.

c) Qualifications-Based Procurement Procedures. The following procedures apply to qualifications-based procurements:

1. Qualifications. Unlike other two-step procurement procedures in which price is an evaluation factor, an offeror's qualifications are evaluated to determine contract award.

2. Price. Price is excluded as an evaluation factor.

3. Most Qualified. Negotiations are first conducted with only the most qualified offeror.

4. Next Most Qualified. Only after failing to agree on a fair and reasonable price may negotiations be conducted with the next most qualified offeror. Then, if necessary, negotiations with successive offerors in descending order may be conducted until contract award can be made to the offeror whose price the recipient believes is fair and reasonable.

5. Effect of State Laws. To the extent that a State has, before August 10, 2005, adopted by law, an equivalent State qualifications-based-procurement requirement for acquiring architectural, engineering, and design services, State procedures, rather than Federal "Brooks Act" procedures (40 U.S.C. Sections 1101 through 1104), may be used.

E. Procurement by Noncompetitive Negotiation (sole source).

1. Procurement by noncompetitive negotiation is permissible only when the award of a contract is unfeasible under small purchase procedures, sealed bids, or competitive proposal and at least one of the following circumstances applies:

a) The item is available only from a single source;

b) A public emergency exists that will not permit a delay resulting from competitive solicitation,

c) FTA authorizes noncompetitive negotiations;

Sole Source. When the recipient requires supplies or services available from only one responsible source, and no other supplies or services will satisfy its requirements, the recipient may make a sole source award. When the recipient requires an existing contractor to make a change to its contract that is beyond the scope of that contract, the recipient has made a sole source award that must be justified.

a. Unique Capability or Availability. The property or services are available from one source if one of the conditions described below is present:

i. Unique or Innovative Concept. The offeror demonstrates a unique or innovative concept or capability not available from another source. Unique or innovative concept means a new, novel, or changed concept, approach, or method that is the product of original thinking, the details of which are kept confidential or are patented or copyrighted, and is available

to the recipient only from one source and has not in the past been available to the recipient from another source.

ii. Patents or Restricted Data Rights. Patent or data rights restrictions preclude competition.

iii. Substantial Duplication Costs. In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.

iv. Unacceptable Delay. In the case of a follow-on contract for the continued development or production of a highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in unacceptable delays in fulfilling the recipient's needs.

b. Single Bid or Single Proposal. Upon receiving a single bid or single proposal in response to a solicitation, the recipient should determine if competition was adequate. This should include a review of the specifications for undue restrictiveness and might include a survey of potential sources that chose not to submit a bid or proposal.

i. Adequate Competition. FTA acknowledges competition to be adequate when the reasons for few responses were caused by conditions beyond the recipient's control. Many unrelated factors beyond the recipient's control might cause potential sources not to submit a bid or proposal. If the competition can be determined adequate, FTA's competition requirements will be fulfilled, and the procurement will qualify as a valid competitive award.

ii. Inadequate Competition. FTA acknowledges competition to be inadequate when, caused by conditions within the recipient's control. For example, if the specifications used were within the recipient's control and those specifications were unduly restrictive, competition will be inadequate.

Unusual and Compelling Urgency. The Common Grant Rule for governmental recipients permits the recipient to limit the number of sources from which it solicits bids or proposals when a recipient has such an unusual and urgent need for the property or services that the recipient would be seriously injured unless it were permitted to limit the solicitation. The recipient may also limit the solicitation when the public exigency or emergency will not permit a delay resulting from competitive solicitation for the property or services.

Associated Capital Maintenance Item Exception Repealed. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) repealed the special procurement preference previously authorized for associated capital maintenance items. Thus, any sole source procurement of associated capital maintenance items must qualify for an exception under the same standards that would apply to other sole source acquisitions.

F. *Contracting with Small and Minority Firms, Women Business Enterprises, and Labor Surplus Areas.*

1. The KYTC/OTD and recipient will take all necessary affirmative steps to assure the use of minority firms, women business enterprises, small business firms and labor surplus area firms when possible. These steps include:

a) Placing qualified small and minority businesses and women business enterprises on solicitation lists;

b) Assuring that small and minority businesses and women business enterprises are solicited whenever they are potential sources;

c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business and women business enterprises;

d) Establishing delivery schedules, where the requirement permits, that encourage participation by small and minority business and women's business enterprises;

e) Use and assistance of the Small Business Administration, the Minority Business Development Agency of the Department of Commerce; and requiring the prime contractor to take affirmative action steps.

f) Maintaining a bidders list in compliance with 49 CFR Part 26.

G. *Contract Cost and Price.* The KYTC/OTD or recipient must perform a cost or price analysis in connection with every procurement action including change orders/contract modifications, and sole source procurements to include making independent estimates before receiving bids or proposals.

H. Pre-Award and Post Delivery Audit Certifications (49 CFR Part 663). For rolling stock purchases, the sub-recipient conducts a pre-award and post-delivery audit to assure compliance with its bid specifications, Buy America, and Federal Motor Vehicle Safety requirements. Forms are included in Appendix D, Standardized Vehicle Specifications. In order to make the pre-award and post delivery audit certifications, the sub-recipient reviews and keeps on file the following information:

1. Documentation provided by the manufacturer as to the cost of the components and any sub-components of the rolling stock, their country of origin and the location of final assembly and the activities that will take place at the location;
2. Information that the rolling stock is the same product described in the manufacturer with the capability to produce a vehicle that meets the specifications; and,
3. A copy of the manufacturer's Federal Motor Vehicle Safety certification information as described in §663.4 or Section §663.43.

I. KYTC/OTD will review and concur in the bid award and vendor agreement, by requiring copies of the signed Pre-Award Audit Certifications. Recipient may not sign the vendor agreement prior to receipt of the Pre-Award Audit Certifications. As part of the review and reimbursement process upon vehicle arrival, KYTC/OTD will require copies of the signed Post-Delivery Audit Certifications.

Lobbying

Recipients of federal grants from any source exceeding $100,000 annually must certify that they have not and will not use federally appropriated funds for lobbying. State agencies administering 5310 and 5311 programs certify to FTA; 5310 and 5311 subrecipients certify to the state. State agencies and subrecipients must impose lobbying restrictions on their third-party contractors and must obtain certifications.

Lobbying is defined as influencing or attempting to influence an officer or employee of any Federal department or agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with obtaining a federal grant, cooperative agreement, or any other federal award.

Currently, subrecipients certify to KYTC/OTD through the grant agreements and the annual certifications and assurances. Specific contracts, grants or cooperative agreements are actions covered by the restrictions on lobbying. For example, activities such as submitting grant applications, status inquiries, and professional and technical services are not lobbying and do not need to be disclosed. Efforts to influence Federal officials about specific grants and contracts or to ask Congressional representatives for support of a particular application or bid must be disclosed. Also, lobbying restrictions do not apply to activities that might influence policy issues.

Subrecipient responsibility:

- Sign a certification of compliance pertaining to lobbying activities.
- Where third party contractors are involved, subrecipients must obtain a signed certification of compliance from the contractor.
- If non-federal funds have been used to support lobbying activities is connection with a grant from KYTC/OTD, and the subrecipient receives federal grants exceeding $100,000, fill out a Standard Form-LLL and submit to KYTC/OTD
- If contractors receive more than $100,000 in federal funds and use non-federal funds to support lobbying, subrecipients must obtain the completed Standard Form-LLL for the contractor and submit to KYTC/OTD.

Debarment and Suspension

To prevent fraud, waste and abuse in federal transactions, persons or entities that, by defined events or behavior, potentially threaten the integrity of federally administered programs are excluded from participation in FTA-assisted programs.

KYTC/OTD will not enter into any third-party or agreement with any party included in the "List of Parties Excluded from Federal Procurement or Non-procurement Programs." This pertains to all FTA sponsored program funds. Listing of excluded parties can be located at: Systems for Award Management (SAM) https://www.sam.gov/index.html/

Subrecipients receiving more than $25,000 through a project from KYTC/OTD must certify they are not debarred or suspended from any Federal agency. This is accomplished through the application process and the annual certifications and assurances.

Subrecipient responsibilities:

- Sign a certification of compliance pertaining to debarment and suspension.
- Verify that a third-party contractor is not disqualified by a Federal agency by including a snapshot of the Systems for Award Management-SAM screen showing no findings with their request for award concurrence.

- Obtain a signed certification or add a clause or condition to the contract or subcontract regarding debarment and suspension.

Buy America Provisions/Pre-Award and Post-Delivery Audits/New Model Bus Testing

Buy America provisions are federal "domestic content" regulations. Buy America affects vehicle and equipment purchases and construction contracts valued at $100,000 or more. It provides, with exceptions, that federal funds may not be obligated for transportation projects unless the steel and manufactured products used in them are produced in the United States.

Pre-award and post-delivery audits

Procurements for vehicles must be in accordance with "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases" (49 CFR Part 633; Federal Register March 31, 1992). The rule requires that any subrecipient who purchases rolling stock certify to the KYTC/OTD that it has conducted a pre-award and post-delivery audit to ensure compliance with its bid specifications, Buy America requirements and Federal Motor Vehicle Safety Standards.

Visual inspection and road testing are required when purchasing unmodified vans, cars, or 20 or fewer buses. Resident inspection is required when purchasing more than 20 buses or modified vans from a single manufacturer.

New model bus testing

New bus models must be tested at the FTA sponsored test facility in Altoona, PA before federal funds can be expended to purchase them. The FTA rule exempts certain vehicles from testing (usually sedans and non-modified vans). The primary purpose of the testing program is to determine the strengths and weaknesses inherent in the particular model for typical operating conditions. Ideally, subrecipients use the bus-testing report as one of the criteria used to select the vehicle for purchase.

Subrecipients purchasing equipment with federal funds are required to receive the Altoona/STURAA bus test report for each vehicle purchased and include it in procurement files if the test is required. The

vendor, prior to subrecipients signing off, should provide the report on post-delivery certification forms and acceptance of the vehicle(s) from the vendor. MAP 21 requires FTA to work with the industry to develop a pass/fail standard for bus testing. This standard must include safety standards established by FTA pursuant to Section 5329(b) (Safety).

• FTA must issue a rule implementing the standard by September 30, 2014. In the interim, the current bus testing process applies.

• Vehicles that do not receive a “pass” rating would not be eligible to be purchased with federal funds.

• Test results cannot be interpreted as a warranty or guarantee that the tested bus will meet the purchaser’s specific requirements.

Subrecipient responsibility:

- Review the manufacturer's Buy America certification and supporting documentation before a contract is awarded to purchase vehicles (pre-award audit). The documentation review should include vehicle sub-components (place of origin, cost and place of final assembly).
- Subrecipients must determine to their own satisfaction that the manufacturer can meet the Buy America requirements.
- Perform a post-delivery audit after vehicles have been delivered. This post-delivery audit ensures that the manufacturer complied with Buy America, the Federal Motor Vehicle Safety Standards, and the subrecipient's specifications. Subrecipients must complete the post-delivery audits before they accept the vehicles and pay the vendor.
- Submit all documentation and certifications to Office of Transportation Delivery. Documentation must be received by the OTD prior to final payment to the subrecipient.
- Contact the KYTC/OTD for technical assistance if needed.

Reimbursement for capital items will not be made until all required documentation is submitted to KYTC/OTD and has been reviewed and approved by OTD staff.

KYTC/OTD may allow, on a case by case basis, state reimbursement simultaneous with a wire transfer to the vendor, with the coordination of the transit systems banking institution.

Purchase of Service Contracts

Subrecipients may purchase service from private sector transportation providers as well as public providers. Under such arrangements, certain special conditions apply to the purchase of service agreement. Subrecipient must ask permission in writing from KYTC/OTD to use Purchase Service Contracts. KYTC/OTD shall approve the proposed purchase of service contracts prior to execution by the subrecipient.

Vehicle Purchasing and Leasing

KYTC/OTD does not purchase vehicles directly with state or federal funds. Subrecipients are responsible for purchasing equipment and services financed by contract award. Subrecipients may make purchases through State purchasing agreements that include the Federal Clauses; however Subrecipients must secure KYTC/OTD approval prior to using any State Price Contract or joint bid through the Kentucky Public Transit Association (KPTA). OTD reviews and approves every step of the procurement process for all KPTA joint bid packages.

Vehicles not purchased off state contract are to be procured by provider agencies using an open competitive bid process that follows federal and state procurement laws and rules. Any RFP must be reviewed by OTD prior to signing with a vendor. KYTC/OTD offers technical assistance concerning the purchase of equipment. The OTD/subrecipient is responsible for protecting the state and federal interest in all equipment and facilities purchased.

If cost effective, lease agreements may be permissible, but subject to KYTC/OTD approval.

Bid Protests/Appeals

The subrecipient is responsible for settling disputes resulting from any procurement action.

Under limited circumstances, a bidder may protest to KYTC/OTD pursuant to a subrecipient's award of a contract.

FTA Third Party Contracting Standards

1. KYTC/OTD and the recipient must comply with Kentucky Revised Statute 45A and FTA Circular 4220.1F when entering into procurement contracts. During the procurement process, both parties shall refer and use Federal Transit Administration "Best Practices Procurement Manual dated December 18, 1998.
2. The KYTC/OTD will maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
3. The KYTC/OTD and the recipient will assure that ethical conduct is maintained by adhering to the following requirements:
   a) The KYTC/OTD and recipient will maintain a written code of standards of conduct governing the performance of their employee engaged in the award and administration of contracts. No employee, officer, or agent of the KYTC/OTD or recipient shall participate in the selection, or in the award or administration of a contract supported by FTA funds, if a conflict of interest, real or apparent, would be involved.
   b) The KYTC/OTD and recipient's officers, employees, or agents will neither solicit nor accept gratuities (under $25 for the entire year), favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.
   c) A written policy shall include procedures for identifying and preventing real and apparent organization conflicts of interest.
4. KYTC/OTD and recipient procedures will provide for a review of proposed procurement to avoid purchase of unnecessary or duplicative items.
5. To foster greater economy and efficiency, the KYTC/OTD and the recipient are encouraged to enter into state and local government agreements for procurement of use of common goods and services, if all required Federal clauses are included in the purchase agreement.

6. All FTA recipients are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property, whenever such is feasible and reduce project costs.
7. The KYTC/OTD and recipients are encouraged to use value-engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. To ensure that systematic and creative analyses of each contract item or task is at the overall lowest cost; both parties shall use value engineering.
8. The KYTC/OTD and recipient will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of proposed procurement. Both parties shall consider such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
9. The KYTC/OTD and recipient will maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
10. The KYTC/OTD and recipient alone will be responsible in accordance with good administrative practice and sound business judgment for the settlement of all contractual and administrative issues arising out of procurement. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do no relieve the KYTC/OTD or recipient of any contractual responsibility under its contracts.
11. The KYTC/OTD and recipient will have written procedures to handle and resolve protests relating to their procurement and shall, in all instances upon FTA request, disclose information regarding a protest to FTA.

B. 3RD Party Contract Competition

1. KYTC/OTD and recipient will conduct all procurement transactions in a manner providing full and open competition. Restrictive situations include, but are not limited to:

a) Placing unreasonable requirements on firms in order for them to qualify to do business;

b) Requiring unnecessary experience and excessive bonding;

c) Noncompetitive pricing practices between firms or between affiliated companies;

d) Noncompetitive awards to professionals and other consultants that are on retainer contracts;

e) Organizational conflicts of interest;

f) Specifying "brand name" products instead of allowing "or equal" product to be offered and describing the performance of other salient characteristics of the brand name product; and

g) Any arbitrary action in the procurement process.

2. The KYTC/OTD and recipient will conduct procurement in a manner that prohibits the use of statutorily or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals.

3. The KYTC/OTD and recipient will have written selection procedures for procurement transactions. The procedure must ensure that all solicitations:

a) Incorporate a clear and accurate description of the technical requirements for the material, product, or service. Such description shall not contain features that unduly restrict competition.

b) Identify all requirements that the offers must fulfill and all other factors used in evaluating bids or proposals.

Chapter 8: Satisfactory Continuing Control and Equipment Maintenance

Background

Capital management is an important aspect of public transit since it affects the safety, marketability, and financial integrity of the transit system. Transit is dependent on its capital equipment to accomplish its mission. All property/rolling stock purchased with federal dollars is the responsibility of the transit system. The transit system retains title to all property, via a Deed of Restriction, providing the property is used for public transportation. Subrecipients of federal dollars administered by the KYTC/OTD are required to certify that any property purchased with those funds is used for public transportation services within the sub-recipient's service area or other area described in the grant application for the useful life of the equipment or facility.

All property acquired using federal funds shall be utilized and disposed of in accordance with the applicable FTA program circular, FTA Circular 5010. D (as amended) and 49 CFR 18.

Title to all-rolling stock purchased with federal funds shall be vested in the name of the subrecipient with KYTC/OTD as the first and only lien holder and holds title.

The subrecipient shall have the requisite fiscal capability to carry out the project and be responsible for maintaining required insurance coverage (KYTC/OTD must be placed as loss payee on respective policies), property records, conducting physical inventories, implementing adequate property control systems and maintaining the equipment in proper working condition. Documentation must be available upon request.

OTD shall provide technical assistance to the transit agencies in developing a Safety, Security and Emergency Preparedness Implementation Plan according to FTA guidance.

Transit systems are required to maintain the property at a high level of cleanliness, safety, and mechanical soundness. Each transit system must establish an equipment/vehicle maintenance program that, at a minimum, meets the equipment manufacturer’s recommendations. KYTC/OTD has the right, and obligation, to review the transit system’s maintenance and safety programs and to conduct periodic inspections of equipment and facilities funded with state and federal funds administered by KYTC/OTD.

Equipment and Real Property Management

Inventory

Any capital equipment including computers, office equipment, cameras, etc. purchased with federal or state funds administered by the KYTC/OTD must be inventoried with KYTC/OTD, and information updated biannually, at a minimum. Any equipment purchased with these funds must be reported quarterly to KYTC/OTD on the requisite inventory data collection form provided to subrecipients. The form should be updated and provided to OTD as soon as new or transferred equipment (including vehicles or property) is received or acquired.

All vehicles and equipment shall be assigned an identification number to allow the items to be traced easily. Include the identification number on the Property Inventory Form. Once an item is assigned a number, it retains that unique number throughout its life. An inventory number should not be reused. Equipment purchased as an integral part of the vehicle does not need to be separately inventoried. For example, a lift or destination sign that is purchased as part of a vehicle does not need to be inventoried

An annual inventory update for equipment and real property is required from all transit systems on items with a current market value of $300 and over. Subrecipients are required to provide OTD a standardized inventory form from KYTC/OTD that includes, at a minimum, information such as:

- Description;
- Identification number;
- Procurement source;
- Acquisition date;
- Cost;
- Percentage of Federal participation in the cost;
- Project Contract Number under which it was procured;
- Location, use and condition; and
- Any disposition data (including the date of disposal and sale price, or, where applicable, the method used to determine its fair market value).
- Warranty
- Oil Changes Manufacturer Recommended Intervals

All information contained in the inventory is verified or corrected and returned to KYTC/OTD no later than the requested due date. Generally, the inventory update is submitted to KYTC/OTD with the annual application.

The subrecipient inventory of equipment is reviewed by the KYTC/OTD and the results reconciled with KYTC/OTD equipment records at least once every two years. Office of Transportation Delivery staff reconciles the subrecipient inventory report during on-site visits. Any differences must be investigated by KYTC/OTD/Subrecipient to determine the cause of the difference.

Allowed and Prohibited Uses of Federally Funded Vehicles

Incidental Use

Vehicles and equipment purchased with state and federal transit assistance funding is justified solely based on proposed use for public passenger transportation. KYTC/OTD does allow incidental use of vehicles and equipment under the following conditions:

- The incidental use does not interfere with the public transit services for which it was originally obtained the incidental use does not exceed 20 percent of the total use of a vehicle.

Each subrecipient must sign an Incidental Services Certification.

Charter Service

FTA grantees are prohibited from using federally funded equipment and facilities to provide charter service except on an incidental basis and when one or more of applicable exceptions set forth in the charter service regulation at 49 CFR 604. Incidental use may include meal and parcel delivery, restricted client services, and FTA allowable charters. Charter service is an allowable activity on an incidental basis if the subrecipient transit agency sends a notice of the trip to Registered Providers on the FTA Charter Registration Website and no Registered Charter Provider responds in the appropriate time or if the trip falls under an "exemption" or "exception" as detailed in the Charter regulation. All allowable incidental charter service must be fully allocated with no charge to federally funded programs. No mileage, trips and hours associated with allowable incidental charter shall be represented in the Subrecipient's annual operating statistics.

Meal Delivery for Homebound Individuals

Public transportation service providers receiving Section 5311 or Section 5310 funds may coordinate and assist in regularly providing meal delivery service for homebound individuals, if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

KYTC/OTD expects the nutrition program to pay the operating costs attributable to meal delivery. The number and size of vehicles applied for under federal or state programs must be determined **only** by the number of passengers to be transported, not meal delivery capacity. Federal capital assistance may not be used to purchase special vehicles used solely for meal delivery or to purchase specialized equipment such as racks or heating or refrigeration units related to meal delivery.

Use of Federally Funded Vehicles for Medicaid Transportation

Transit vehicles purchased with FTA/KYTC/OTD funds that still have a useful life and have not been released by KYTC/OTD should be used for providing transportation services within the local transit provider's designated service area. Transportation within the designated service area includes transportation of an individual from the designated service area to a facility or location outside the service area and the return trip.

Emergency Leases Between Systems

If emergency situations arise and a vehicle will be out of service for several months, a transit system may want to lease another vehicle to replace the "out-of-service" vehicle. If available, a vehicle may be leased short-term from another transit system to maintain needed service needs within a service area. KYTC/OTD should be notified of any pending lease agreement. Any lease must be approved by KYTC/OTD and a copy kept on file at KYTC/OTD.

Vehicle Use Agreements

KYTC/OTD encourages transit systems to retain direct control of their vehicles. Therefore, KYTC/OTD discourages placing vehicle(s), equipment or real property under the control of other agencies and reserves the right to approve or disapprove all vehicle/equipment/property use agreements that involve items purchased with state or federal dollars. When a transit system has justified that the best use of the vehicle(s) or equipment would be under a vehicle use agreement, several issues should be addressed before the vehicle use agreement is signed. Some issues that should be discussed with the subcontractor are:

- Drivers of the transit system or drivers from another agency may drive the vehicles as long as insurance coverage is adequate for these uses;

- The vehicle use agreement must state who is responsible for such items as insurance, maintenance, drivers, emergencies, backups, etc.;
- The vehicles must be operated open to the public without discrimination;
- Incidental service ridership and revenue miles must be reported as such, separate from the service open to the general public;
- Driver licensing requirements; and
- Drug and alcohol testing requirements.

The transit system remains responsible to KYTC/OTD for compliance with all state and federal rules and regulations. The office must be notified of the location of the vehicle or equipment.

Useful Life and Replacement Standards

Useful Life Standard and Utilization

FTA establishes minimum useful life standards to ensure that vehicles and other equipment are maintained for transit use for their normal service lives and to ensure that the vehicles and equipment purchased are necessary for public transit service. If KYTC/OTD determines that a transit system is failing to use or maintain any equipment item properly, the office will notify the transit system and may withhold further state and federal assistance. This may be done until adequate measures are taken to correct the inadequate use or maintenance of the equipment. In some instances, KYTC/OTD may ask that the equipment be offered for transfer to another transit system or that the state and/or federal share of the item purchased be returned to KYTC/OTD.

Vehicle Title

Copies of the title and liens to all property purchased pursuant to a Section 5309,/5339 5310/5311/ award shall be maintained by the KYTC/OTD until the useful life of the vehicle has been met, the vehicle has been adequately disposed of, and no further federal interest exists.

Service Life of Rolling Stock

Useful life of rolling stock begins on the date the vehicle is placed into revenue service and continues as long as it is in service. If a vehicle is out of service more than 30 days, KYTC/OTD must be notified on the quarterly

report. The period of time that the vehicle is out of service does not count toward the minimum useful life. Incidental service mileage does not count toward the minimum useful life.

If a vehicle is rehabilitated or rebuilt (Rebuild: A recondition at the end of useful life that creates additional useful life). Rebuild is a capital expense incurred at or near the end of the rolling stock's useful life that results in a new useful life of the rolling stock that is consistent with the extent of the rebuilding. with federal funds, with a fifty percent and a new replacement threshold. KYTC/OTD allows vehicles to be replaced once a vehicle has met mileage standard at a minimum:

TYPE OF VEHICLE	**AGE OF VEHICLE**	**MILEAGE**
Van/Cutaway (5 – 15 passenger)	4 years	100,000 miles
Medium Bus (16 – 29 passenger)	7 years	200,000 miles
Large Bus (30 – 35 passenger) Includes rubber wheeled trolleys	10 years	350,000 miles
Large Bus (36 passenger and greater)	12 years	500,000 miles

Fleet Utilization Standards

KYTC/OTD encourages full utilization of all vehicles within a fleet throughout their useful life, especially vehicles purchased with funds administered by KYTC/OTD. Once a vehicle has reached the useful life threshold, it may be considered a backup or spare vehicle upon review and approval by KYTC/OTD. The recommended minimum spare ratio for a subrecipient fleet is not to exceed 20%.

To ensure that all vehicles receive maximum utilization, KYTC/OTD suggests rotating vehicles within the service area or between service areas, or from lightly traveled routes to heavily traveled routes. Any system failing to meet the minimum standard for its primary fleet (excluding backup vehicles) may be denied replacement or rehabilitation funds.

Vehicle Rehabilitation/Rebuild

When a vehicle owned by a transit system reaches the KYTC/OTD minimum useful life standard, it may be replaced or rehabilitated. Rehabilitation may be a cost effective alternative to replacement. The decision

whether to replace or rehabilitate is up to the transit system. FTA rules require vehicles rehabilitated with federal funds to be operated for an additional one-half of the original useful life. Systems are encouraged to consider the rehabilitation alternative, but are reminded of the commitment to operate the vehicle for an additional 50 percent of the original useful life.

Reference is made to the Rolling Stock Rebuilding Policies. FTA laws, regulations, policies, and procedures allow the use of capital funds for vehicle rebuilding programs that meet the vehicle requirements in Federal Motor Carrier Vehicle Safety Standards and Americans with FTA C 5010.1D Page IV-19 11/01/2008 Rev. 1: 8/27/2012 Disabilities Act Accessibility Specifications for Transportation (49 CFR part 571 and 49 CFR part 38). Requirements for Bus and Rail fleets are summarized below:

Buses to be rebuilt should be at the end of the minimum useful life and in need of major structural and/or mechanical rebuilding. The age of the bus to be rebuilt is its years of service at the time the rebuilding begins. The eligibility of this major capital bus rebuild work is in addition to the eligibility of vehicle overhauls as described in Chapter IV, Subsection 3.h., “Rolling Stock Overhauls,” below.

Grantees should contact the regional or metropolitan office to determine the extent which the useful life of the bus is affected by the rebuild. The minimum extension of useful life is four years.

Rolling Stock Overhauls. Rolling stock overhauls are an eligible capital expense as preventive maintenance. This eligibility for capital assistance applies also to leasing and to contracted service. Overhauls are usually done to make sure rolling stock reaches its useful life. Overhaul does not extend the useful life of rolling stock. This eligibility is in addition to eligibility of rebuilding specifically discussed above in Chapter IV, Subsection 3.g.

Utilization Standards for Other Equipment

Equipment such as computers, radios, and fare boxes purchased with state or federal dollars must also be used to its maximum capacity.

Computers and Other Office Equipment

Computers, copiers, and other office equipment are eligible items for capital funding to the extent that they are used for support of the recipient's public transit program.

Subrecipients that may be multi-purpose agencies (cities, Council of Governments, etc) must either affirm that the equipment will be dedicated to public transit use or prepare a cost allocation proposal. Such a proposal must either show what percentage use of the proposed equipment will be dedicated to transit or show the transit percentage of use of an overall multiple equipment package. (Example: Transit might buy a network printer used by others, but in return have free use of color copier funded by another program.)

Use of Facility/Real Property

KYTC/OTD encourages incidental uses of real property that can raise additional revenues for the transit system or, at a reasonable cost, enhance system ridership. KYTC/OTD approval (based on Federal Transit approval) is required for incidental uses of real property which must be compatible with the original purposes of the contract.

Incidental use of project real property is subject to the following considerations:

- Needed Property. This policy applies only to property that continues to be needed and used for a project or program. It is KYTC/OTD's intention to assist only in the purchase of property that is needed for an FTA project.
- Purpose & Activity. The incidental use must not compromise the safe conduct of the intended purpose and activity of the initial public transit project activity.
- Continuing Control. Incidental use must not in any way interfere with the continuing control over the use of the property or its continued ability to carry out the project or program.
- Non-Profit Use. While KYTC/OTD is particularly interested in encouraging incidental use as a means of supplementing transit revenues, non-profit uses are also permitted.
- Air Rights Income. Proceeds from licensing and leasing of air rights should reflect appraised fair market value. Income received from the authorized use of air rights may be retained by the subrecipient (without returning the Federal share) if the income is used for eligible transit planning,

capital and operating expenses. This income cannot be used as part of the local share of the contract from which it was derived. However, it may be used as part of the local share of another FTA/KYTC/OTD grant.

Disposition of Federally Funded Equipment

Transit systems are required to dispose of any federally funded equipment or facilities that are no longer needed for support of the public transit program. This would normally include equipment that has been replaced, as well as any equipment that is no longer used to capacity because of changing needs due to loss of contracts, service cuts, changed nature of services, or because of dissatisfaction with the equipment.

No vehicles or equipment funded through Section 5339, 5310, 5311, or applicable 5309 programs may be disposed of or transferred without advanced written permission from KYTC/OTD.

Vehicle Disposal

The subrecipient may dispose of equipment at the end of its useful life after notifying and receiving disposition instructions from KYTC/OTD. The KYTC/OTD staff maintains copies of Titles and vehicle liens until disposition is complete. Procedures for disposal are:

- A formal request for lien release shall be submitted to KYTC/OTD. If the vehicle is to be transferred to another transit agency, a ten percent local share may be paid by the agency receiving the vehicle. The agency requesting the transfer may be required to submit a fair market value estimate.

- KYTC/OTD shall send a written authorization to the subrecipient to sell the vehicle(s) or to junk the vehicles(s). If junked, KYTC/OTD must receive a copy of the junk title. From the KYTC/OTD approval date, a subrecipient to sell or junk a vehicle.

- Disposal procedures must be approved in advance by OTD. Employees (or their family members) of the transit agency cannot submit a sealed bid involving sealed bids that are controlled by the transit agency. They may participate in an auction process that is controlled by a third party.

- Employees (or their family members) of the transit agency cannot submit a sealed bid when the sealed bids are controlled by the transit agency. In the case where the transit agency is going to hold the sealed bid process internally, the transit agency will need to include a disclaimer for eligibility requirements such as, “Employees and the immediate family members (spouse, parent, child, sibling and their respective spouses, regardless of where they reside) and persons living in the same household as such individuals, whether related or not, are not

eligible to participate in the bidding process." They may participate in an auction process that is controlled by a third party.

The subrecipient may dispose of equipment with remaining useful life upon receiving written instructions from KYTC/OTD.

- KYTC/OTD may offer the equipment for sale to other properties in the state. Should another subrecipient want the equipment, the federal financial interest in the equipment would be transferred and the new owning project would be responsible for reimbursing the original owning project for the local share of the current fair market value of the equipment.

- If no other subrecipient is interested in purchasing the equipment, the subrecipient may be advised to sell it and return the proportional (federal/state) share of the proceeds to KYTC/OTD.

Disposal consideration may be given for equipment (vehicles) that has extenuating maintenance problems. Documentation for this type of consideration includes, but is not limited to:

- The number of days in the shop within the past 12 months;
- The total amount expended on repairs since the vehicle was purchased along with a copy of any repair bills over $100.00;
- Identification of the defective part(s);
- The original date of delivery by the vendor;
- A copy of the agency's maintenance plan; and
- Maintenance records of vehicle.

Transfer of Federal/State Share

KYTC/OTD's policy is to arrange transfers for any vehicles purchased under FTA programs administered by KYTC/OTD, or any vehicles purchased with revenues collected by utilizing FTA vehicles, such as contract revenue funds received from non-emergency Medicaid services, and so that they will continue to be used in public transit throughout their useful life. If any transit system has equipment purchased with FTA/KYTC funds administered by KYTC/OTD that is no longer needed for use by the public transit program, the equipment will be made available for transfer to any other state transit system willing to use the equipment to the end of its useful life. Agencies with vehicles meeting their useful life may request disposal in writing to

the Office of Transportation to be transferred/donated to local agencies such as shelters, homes for children, or community outreach programs.

If vehicles are disposed of prior to meeting the KYTC/OTD established useful life standards, the federal interest in the vehicle must:

- Be transferred to another transit system that commits to operate the equipment up to the minimum useful life. If more than one transit system seeks to obtain the equipment, preference will be given to transit systems eligible for the FTA program under which the equipment was originally funded.
- Be credited against the cost of a future replacement vehicle thereby reducing the federal participation by a like amount, or
- Be refunded to FTA/KYTC/OTD

If necessary, KYTC/OTD may make the determination which transit system has the greatest need for the equipment, based on the following criteria:

- Emergency needs due to problems with the fleet;
- Emergency needs due to problems with existing fleet;
- Emergency needs due to service expansion;
- Anticipated needs due to proposed expansion;
- Proposed level of utilization;
- Capability to maintain transferred equipment;
- Consistency with system's planning and programming; or
- Other factors that may be appropriate.

The federal/state interest in equipment transferred prior to meeting useful life standards will be transferred outright to the recipient system.

Compensation for local share in the equipment shall not be required but may be negotiated between the transit systems if the recipient agrees.

Transferring Federally/State Funded Vehicles/Equipment

Letter listing the transferred equipment specifications documents the transfer of property. Each party and KYTC/OTD receives an original copy in any transfer involving KYTC/OTD administered federal funds. Direct recipients of FTA Section 5307 or 5309 funds must have FTA concurrence prior to transferring federal equipment. The transit system transferring the vehicle signs the title and gives it to the system receiving the vehicle. The transit system transferring the vehicle must also provide the system receiving the vehicle with a signed odometer statement. The system receiving the vehicle is responsible for titling and licensing the vehicle. The system transferring the vehicle must delete the equipment from the system's inventory and the system receiving the vehicle must add the transferred equipment to its inventory.

Insurance Settlements

When a vehicle funded through KYTC/OTD has been in an accident and totaled, or can no longer be used as a safe public transit vehicle, the office must be notified at once. Insurance information and a letter stating damages and the amount of the proposed settlement to the transit system should be sent to KYTC/OTD. The office must concur with the decision to 'total out' any vehicle funded through programs administered by KYTC/OTD.

The settlement funds can be used for purchase of a similar vehicle for continued transit use. The subrecipient must request instructions from KYTC/OTD on the procedures for the purchase of another vehicle and KYTC/OTD must concur with the purchase. If the vehicle has not met the replacement threshold and a replacement is not purchased, the federal/state share of the vehicle must be returned or used for public transit services. This is based on straight-line depreciation or settlement values whichever is greater. If the vehicle has met the replacement threshold and is not replaced, any insurance funds should be used in the public transit program.

If a system settles with an insurance company on damages to the vehicle and does not use the full amount of the settlement for costs related to the damage, the remainder must be put back in the public transit

program. However, vehicles must be repaired to the point where they are mechanically sound, safe and in presentable condition.

Repayment of Federal/State Share

As noted above, if any FTA/KYTC/OTD funded equipment is disposed of prior to reaching its minimum useful life, the residual federal/state interest must be refunded or credited toward purchase of another piece of equipment.

If equipment purchased with funds administered by KYTC/OTD are used to the minimum useful life or beyond prior to disposition, no repayment of federal/state share is required, but sale proceeds must be retained in the system's public transit program.

Maintenance Standards and Policies

Subrecipients are required to certify that any property purchased under the project shall be used for the provision of public transportation services within the subrecipient service area or other areas as described in the grant application, and for the life of the equipment or facility in compliance with the property management standards of 49 C.F.R. 18.31 through 18.34.

A copy of the title and a lien, and if applicable, a deed of restrictions, to all property purchased pursuant to a federal/state award from KYTC/OTD to a subrecipient shall be maintained by the KYTC/OTD until the useful life of the property has been met and no federal/state interest exists.

The KYTC/OTD shall require all subrecipients to submit a system maintenance plan that will include at a minimum procedure for maintaining vehicles, facilities and ADA accessibility features.

A sample checklist:

Office of Transportation Delivery
Facility Maintenance Plan Checklist

Agency: _____

		Y or N
1.	Maintenance Supervisor: Employee, Training, and Certifications	_____
2.	Maintenance Plan Goals & Objectives	_____
3.	Plan Explains Agency's Facility assessment method/checklist: How do they survey the facility to check for safety & maintenance needs? Is there a plan in place to do this?	_____
4.	Plan describes the frequency of preventative maintenance inspections. (e.g. Daily/Monthly/Annually/When reaching certain # of hours of use)	_____
5.	Does the plan explain where the agency maintains records of maintenance history for facilities and equipment? Do they have an appropriate record-keeping system?	_____
6.	Does the Plan Address Security Equipment? (e.g. Locks/Cameras/Security System)	_____
7.	Plan addresses specific mission criteria: (e.g. HVAC/Roofing/Overhead Doors/Fire Safety/Elevators/Plumbing/Parking Lots, etc.	_____
8.	Does the Facility meet ADA requirements?	_____
9.	Plan gives detailed description of warranties on capital equipment	_____
10.	Is the plan for preventative maintenance consistent with the minimum requirements from the Manufacturer for facilities and equipment under warranty?	_____
11.	The plan has an executed date and signature page. Date last updated: _____	_____

Office of Transportation Delivery
Vehicle Maintenance Plan Checklist

Agency: _____

1. Vehicle Maintenance Supervisor: Employee, Training, and Certifications.

2. Maintenance Plan Goals & Objectives included.

3. Preventative maintenance checklists are included in plan.

4. Plans and preventative maintenance checklists are consistent with current operating fleet.

5. Plans and preventative maintenance checklists are consistent with manufacturers' minimum maintenance requirements for vehicles under warranty.

6. Plan gives detailed description of the warranty for vehicles in the fleet.

7. Does the plan explain how the agency will track that the manufacturers' recommended maintenance is followed for vehicles under warranty?

8. The plan addresses preventative maintenance for on-board security vehicle cameras. (If the agency does not have on-board security vehicle cameras; is it stated in the plan?)

9. Does it address how ADA accessible features are maintained?

10. The plan has an executed date and signature page. Date last updated:

General Maintenance

Subrecipients shall allow KYTC/OTD access to facilities and records to monitor maintenance performance, as KYTC/OTD deems necessary.

KYTC/OTD shall perform maintenance inspections of vehicles and equipment. KYTC/OTD shall be permitted to view and copy any vehicle maintenance records, inspect vehicles and equipment, and request subrecipient personnel to drive vehicles as may be deemed necessary to evaluate the condition of vehicles and equipment. All rolling stock and equipment must be maintained in accordance with the Manufacturer's recommendations.

Records

General

Subrecipients shall maintain an up-to-date vehicle file for each vehicle containing, at a minimum, the following information:

- Make of vehicle
- Model of vehicle
- Vehicle Identification or Serial number/Fleet number
- License number
- Funding Information (Federal and/or State)
- Contract/Grant Number
- Date received
- Date placed in service
- Rebuilds and major component replacements
- Vehicle repairs
- Preventative Maintenance Inspection Reports
- Daily vehicle conditions reports
- Works orders

- Rolling Stock under warranty a system identifying warranty claims, recording claims, and enforcing claims against the manufacturers. Clear procedures to identify warrant repairs, record warranty claim, submit claim to manufacturer, follow-up on unpaid claims.

Preventative Maintenance Schedule

The subrecipient shall insure that all vehicles under its control and all required accessories on the vehicles, are regularly checked and inspected, maintained, and lubricated to ensure that they are in safe and operating condition. The subrecipient shall have a means of indicating the types on inspection, maintenance, and lubrication operation to be performed on each vehicle and the date or mileage that these operations are due.

Equipment Maintenance Standards

- All wheelchair lift-related equipment shall be inspected, service and lubricated at intervals necessary to insure that the wheelchair lifts are fully operational whenever the vehicle is used in revenue service.
- Brake inspections and adjustments shall be performed at intervals that insure the safe and efficient operation of the braking system.
- All components of the vehicle bodies, frames shall be maintained in a safe, sound and undamaged condition at all times. Damage (including body damage, glass and all vehicle components) shall be repaired in a professional manner within three weeks (21 calendar days) of occurrences.
- All mechanical, electrical, fluid, air, and/or hydraulic system shall be maintained in a safe and fully functional, as designed, at all times.
- The interior passenger compartment shall be free of exhaust fumes from the engine, engine compartment, and exhaust system from the vehicle.
- Heating, ventilation, and air conditioning (HVAC) system shall be maintained and used to insure that the passenger compartment temperature is comfortably maintained under all; climatic conditions at all times on all in-service runs. Subrecipient shall maintain the A/C systems in an operable condition throughout the entire year.
- Seats shall be maintained in proper operating condition at all times. All rips, tears, cuts, gum, graffiti, and other damage shall be cleaned or repaired in a professional manner immediately upon their

discovery. Seat covers, which are worn or cannot be professionally repaired, shall be replaced by the subrecipient using materials, which are identical in design and color as those materials being replaced.

- The subrecipient shall establish and maintain an on-going spare parts inventory sufficient to permit that peak hour vehicle requirements are met at all times.
    - Rolling Stock/Equipment under warranty a system identifying warranty claims, recording claims, and enforcing claims against the manufacturers. Clear procedures to identify warrant repairs, record warranty claim, submit claim to manufacturer, follow-up on unpaid claims.

Out of Service

A vehicle shall be designated as unfit for revenue service (considered Out of Service) if, upon inspection, any of the following conditions are found:

- Brakes out of adjustment
- Loose steering components
- Wheelchair Lift and related equipment not functioning properly
- Air conditioning unable to maintain a temperature 20 F lower than ambient or 72 F
- Heating or Defroster inoperative
- Tires with a tread depth of less than 2/32
- Failure to clean each vehicle
- Failure to repair vehicle body damage (interior or exterior) within twenty-one (21) days of the date damage occurred
- Inoperative Emergency Exits/Doors/Windows
- Inoperative Sensitive Edges on wheelchair lift or exit doors
- Any condition not in compliance with the Americans with Disabilities Act
- Any condition not in compliance with applicable Federal or State Regulations
- Any vehicle inspected and found unfit for service will be taken out of service and not returned until corrected.

Chapter 9: Construction or Renovation of Facilities

Background

The construction or renovation of project facilities for Section 5311 subrecipients may be necessary to provide for an efficient and coordinated rural public transportation system. The costs of construction or rehabilitation of transit facilities, including design, engineering, and land acquisition, are eligible capital expenses. The responsibility for construction management and oversight lies with the Subrecipient.

Real property must be acquired, managed, used and disposed of in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) (PL 91–646) and 49 CFR Part 24, the implementing regulation. Additional guidance is found in FTA Circular 5010.1D (as amended).

The objective of the Uniform Act is to ensure equitable treatment of property owners of real property to be acquired for Federal and federally-assisted projects; that people displaced by a federally-supported project be treated fairly, consistently, and equitably; and that acquiring agencies implement the regulations in a manner that is efficient and cost effective. The regulations implementing the Uniform Act are very specific in naming the means to achieve those legislated objectives. Objectives of FTA Circular 4703.1, Environmental Justice Policy Guidance for Federal Transit Administration Recipients will be considered when administering the requirements of NEPA, Title VI and related statutes, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Congressionally-authorized planning requirements, and other laws, regulations, and Executive Orders that address or affect infrastructure planning and decision-making, social economic or environmental matters, public health or public engagement.

To ensure eligibility for Federal funding, the subrecipient should follow the typical process sequence when acquiring real property for a project:

Title VI Equity Analysis→ National Environmental Policy Act (NEPA) Approval → Title Search → Appraisal → Appraisal Review → Just Compensation Determination → KYTC/OTD Concurrence → Offer to Owner → Settlement

Pre-Award Review

The following guidelines have been developed for transportation providers based on the procedures set forth by the State Management Plan issued by the KYTC/OTD. If federal or state funds are used, applicable federal and state guidelines and requirements must be followed in accordance with FTA Circulars 4220.1F and 5010.1C and any revisions there to. In addition, all **construction related activities shall require pre-award review and approval by the KYTC/OTD.**

Planning

Planning activities in advance of the construction or renovation of rural public transportation facilities are an eligible Section 5311 expense. These may include, but are not limited to, feasibility studies, alternative site analyses, environmental assessments, environmental impact statements, or other studies necessary as a prerequisite to undertaking the project. A Title VI Environmental Justice analysis should be conducted during the planning stage.

Planning activities may be funded from Section 5311 administrative funds

Land Acquisition

Overview

Real property acquisition and relocation activity must be conducted in accordance with the requirements in the *Uniform Relocation Assistance and Real Property Uniform Relocation Act of 1970, as amended (Uniform Act)*, and codified in *49 CFR, Part 24*. FTA guidance states, "The objective of the Uniform Act is that owners

of real property to be acquired for Federal and Federally assisted projects be treated fairly and consistently; that persons displaced be treated fairly, consistently and equitably; and that acquiring agencies implement the regulations in a manner that is efficient and cost effective." Subrecipients may not incur costs prior to receiving approval from KYTC/OTD.

Any Section 5311 construction or renovation activity which involves the acquisition of land or the displacement of any persons, firms or businesses shall be subject to the provisions of the 49 CFR part 24 and the regulations of FTA Circular 5010.1C, "Grant Management Guidelines." or Environmental Justice Circular.

Real property is acquired at its current fair market value, established on the basis of independently prepared appraisals.

In addition, and associated with the acquisition of real property, the state requires the preparation of an environmental assessment (to at least Level I) completed by a professional environmental firm.

Incidental uses of real property which may raise additional revenues for the transit system or, at a reasonable marginal cost, enhance system ridership, are subject to the regulations contained in FTA Circular 5010.1C.

Responsibilities

Subrecipient:

- Obtains appraisals and prepares initial environmental and other required documents including Title VI Equity Analysis **prior or with the** application submission.

KYTC/OTD

- Reviews submittals for accuracy and conformance to policy and KYTC/OTD must sign off on just compensation.
- Provides policy direction and guidance.

Appraisal

1. Appraisers must be certified or licensed with a State Appraisal Board as required by the URA regulations at Section 24.103(d) (2).

2. Real property must be acquired at its current fair market value. Fair market value will be established based on a recent, independently prepared appraisal by a certified appraiser,
3. An additional appraisal may be made if the grantee finds the valuation problem complex and deems a second appraisal to be appropriate.
4. Subrecipients shall instruct appraisers to disregard any decrease or increase in the fair market value of the real property caused by the likelihood that the particular property is to be acquired for the project.
5. An appraisal and a reviewer's analysis will be required.
6. Instead of using its power of eminent domain, when a property cannot be purchased at appraised value, a subrecipient may propose acquisition through negotiated settlement.
7. The subrecipient must document that reasonable efforts to purchase it at the appraised amount have failed and prepare written justification supporting why the settlement is reasonably prudent and in the interest of the public.
8. When the settlement exceeds the offer by $10,000, a litigation attorney must provide a written assessment of proposed settlement risks over the risks of proceeding in court. Prior FTA concurrence is required when a settlement of $50,000 or more and must be further negotiated. FTA has identified exceptions to obtaining a full appraisal.
9. Full appraisal or negotiation procedures are not necessary in certain instances. The KYTC/OTD should be contacted for further guidance when any of the following conditions apply:
    - The owner is donating the property.
    - The subrecipient does not have authority to acquire property by eminent domain.
    - The property qualifies as a voluntary acquisition as defined in 49 CFR 24.101(a).
    - The valuation problem is uncomplicated and the fair market value is estimated at $2,500 or less, based on available data.
10. Unless one or more of the exceptions above applies, the project application that includes real property acquisition is considered incomplete without an appraisal.

11. An estimated property value of $500,000 or greater will require FTA approval of the Appraisal and Review Appraisal.

Negotiation

Federal land acquisition regulations require that appraisals, including an "offer of just compensation" (with supporting documentation) be prepared before entering into negotiations or executing a purchase agreement for the land.

A subrecipient may **initiate** the negotiation process prior to grant approval and subrecipient shall secure prior approval from KYTC/OTD before an offer is made. <u>However, no reimbursement will be made for costs incurred prior to execution of the standard agreement.</u>

It is therefore important for subrecipients await notification that the standard agreement is fully executed before entering into the purchase agreement. The purchase agreement is normally executed at or prior to the opening of escrow.

Payments are made on a reimbursement basis upon presentation of proper invoices and supporting documentation. Grant funds will not be available for deposit in escrow. Subrecipients should therefore be prepared to finance land acquisitions initially with local funds.

Architectural and Engineering Services

A project will retain architectural and engineering (A/E) consulting services in accordance with competitive proposal procedures for qualifications-based procurement as outlined in FTA Circular 4220.1F and in accordance with KRS 45A. This type of procurement will also be used for architectural and engineering related services such as program management, construction management, feasibility studies, preliminary engineering, design, surveying, mapping, or related services. Following this method, competitors' qualifications are evaluated and the most qualified competitor will be selected subject to negotiation of fair and reasonable compensation.

The scope of work in the project's Request-for-Proposal (RFP) will incorporate planning procedures for design and construction of capital improvement projects.

KYTC/OTD will approve the negotiated contract between the project and the architectural/engineering consultant.

The selected architectural/engineering consultant will not commence work on the project until receipt of the executed design agreement.

Facility Design

The A/E firm will be responsible for filing all applicable permits, plans, specifications, and other documents with any local, state or federal agency having jurisdiction over any part of the project.

KYTC/OTD will coordinate the design review among the state agencies that may have review responsibility over the project. The A/E consultant will be responsible for submitting the specified number of copies of design documents to accomplish this review.

The actual amount of Section 5311 funds obligated will be based on the programmed amount and the cost estimate prepared by the project's A/E consultant and is dependent upon the availability of federal funds.

The A/E consultant will be responsible for establishing the date for receipt of bids in consultation with the project and KYTC/OTD. Adequate notice will be required between publication of the advertisement for bids and their receipt.

The project will submit to KYTC/OTD a certified tabulation of the bids received along with the project's approval process and recommendation for bid award.

Office of Transportation Delivery will approve the award of construction contracts prior to execution of agreements between the project and the successful bidders.

Facility Construction

The project, through it A/E consultant, will be responsible for all inspection and construction administration activities during facility construction.

The project will forward two (2) copies of the final construction report to KYTC/OTD. KYTC staff may conduct separate inspections and attend any of the construction/contractor meetings during the construction process.

Property Management

Facilities constructed or renovated with federal funds will be the property of the project as long as the facility is used for public transportation purposes.

If for any reason the facility is no longer needed for the purposes of public transportation services in non-urbanized areas, the provisions of FTA Circular 5010.1C (as amended) regarding property disposition will be followed.

All subrecipients shall have an effective facilities and equipment maintenance plan that insures that federal and state investment in facilities and equipment is protected adequately. The maintenance plan should be written and include an organization and assignment of responsibility for facility and equipment maintenance, a series of inspections and routine maintenance actions designed to ensure the proper care and maximum useful service life of facilities and equipment, and a record-keeping system that maintains adequate permanent records of maintenance and inspection activity for buildings and equipment. KYTC/OTD will ensure compliance through periodic on-site inspection.

Maintenance Requirements

Properties purchased or constructed with federal or state funds such as land, buildings (i.e. bus barns), and facilities (i.e. passenger shelters and transfer stations) should be maintained free of defects and graffiti to ensure the area is in usable condition and a safe environment. The properties must be used for the purposes described in the application and agreement.

All subrecipients are required to have maintenance plans for buildings and facilities and submit them to OTD.

Restrictive Covenants/Deed of Restrictions

KYTC/OTD requires that land and permanent buildings purchased or improved with federal or state funds have a restrictive covenant filed with the property deed. The covenant is to protect the federal interest in the property. Because passenger shelters are not permanent buildings, they are exempt from this requirement.

Disposition of Property

Land, buildings or facilities purchased or improved using federal or state funds may only be used for the originally authorized purpose. Such property shall not be transferred to another party, disposed of, or have other liens or claims imposed, without obtaining the approval of KYTC/OTD pursuant to the procedure below.

When property funded with federal or state funds is no longer needed for the originally authorized purpose, the subrecipient is required to contact the OTD for disposition instructions. The options are as follows:

- Retain title of the property after compensating the awarding agency (KYTC/OTD);
- Sell the property and compensate the awarding agency (KYTC/OTD); or
- Transfer title to the awarding agency (KYTC/OTD) or to a third-party designated or approved by the awarding agency.

The fair market value of the property shall be used when property is sold, transferred to another party, or voluntarily converted to a non-transit use by the transit agency. Subrecipients must have a commercial appraisal or other fair market valuation to determine fair market value. KYTC/OTD must review and approve the fair market valuation if a commercial appraisal is not used.

When compensating KYTC/OTD under the procedures identified above, KYTC/OTD receives an amount equal to the fair market value times the percent of federal or state reimbursement as identified in the original subrecipient agreement. The subrecipient retains an amount equal to the fair market value times the percent of match provided as identified in the original subrecipient agreement.

The disposition of property that is involuntarily converted (i.e. acts of God, other) will be negotiated on a case-by-case basis between KYTC/OTD and the subrecipient.

Subrecipients must reinvest any funds received from the sale of property or insurance proceeds into the transit program. Funds received by KYTC/OTD shall be reinvested into the originating grant.

Subrecipient responsibilities:

- Contact OTD for technical assistance regarding any applications for federal or state funding for land acquisition or development of permanent structures.
- Obtaining restrictive covenants/deed of restrictions on land or permanent buildings
- Submit maintenance plans for land, buildings and facilities to OTD.
- Keeping an inventory of land, buildings or facilities purchased with federal funds and submitting to OTD through the Property Inventory forms.
- Name KYTC/OTD as additional insured for premise insurance.
- Contact OTD for assistance regarding disposal of land, buildings or facilities acquired with federal or state funds.
- When disposing of property, obtain a commercial appraisal or other fair market valuation, and submit the documentation to KYTC/OTD for approval.
- Compensate KYTC/OTD as described above if disposing of property.
- Reinvest any proceeds from the sale of property into the transit program.
- Request approval for any incidental use from KYTC/OTD.

Labor Protections

Davis-Bacon Act

For FTA programs, 49 U.S.C. 5333(a) applies Davis-Bacon Act prevailing wage requirements. The Davis-Bacon and Copeland Acts are codified at 40 USC 3141, *et seq.* and 18 USC 874. The Acts apply to grantee construction contracts and subcontracts that "at least partly are financed by a loan or grant from the Federal Government." 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i) (5). The Acts apply to 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." 29 CFR 5.5(a). The requirements of both Acts are incorporated into a single clause (*see* 29 CFR 3.11) enumerated at 29 CFR 5.5(a) and reproduced below.

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without

subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

This provision applies only to construction projects. In the event that a project involves construction, Section 5333(a) of the Act requires the Secretary to take such action as may be necessary to ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of loans or grants under this Act be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the

Davis-Bacon Act, as amended. The Secretary may not approve any such loan or grant without first obtaining "adequate assurance" that required labor standards would be maintained upon the construction work.

Subrecipients are required to have current labor certifications and assurances from the Federal Transit Administration. These assurances should be reviewed and incorporated into subrecipient proposals and awards made for real property construction and/or renovation.

Chapter 10: Other Applicable Provisions

Background

Several laws and administrative requirements apply in common to all federal grant programs and, therefore, are applicable to the Sections 5310 and 5311 Programs as well. Compliance features for some of these requirements have been further defined by the Federal Transit Administration, inclusive of several unique provisions applicable to all FTA grant assistance programs.

Civil Rights

The KYTC Title VI Program Manual was developed in response to federal nondiscrimination regulations issued by the United States Department of Transportation (DOT).

- The Civil Rights Project Manager is responsible for the Disadvantaged Business Enterprise (DBE) Program. The KYTC/Office for Civil Rights and Small Business Development (OCRSBD) certifies all businesses through the Unification Certification Program. All certified firms are listed on the cabinet's website. The new firms are added to the website as they are approved. With each annual §5311 subrecipient budget, a goal is set for eligible purchases and approved by KYTC/OTD as part of a subrecipient's annual budget. OTD and its subrecipient transit agencies will move toward more race neutral measures in obtaining the services of DBE and small business firms and will require more good faith efforts by transit agencies and prime contractors in accordance with 49 CFR Part 26. Transit systems report DBE eligible purchases each month. The Project Managers give this information to the Civil Rights Project Manager for compilation. KYTC/OTD uses this information in the Semi-annual DBE reports prepared by the Civil Rights Project Manager and submitted to FTA. The Civil Rights Project Manager, the Branch Manager and the Executive Director in conjunction with the OCRSBD reports on file in the Cabinet, prepare the goal report due every three (3) years unless significant changes are made. KYTC/OTD submits this report to FTA by August 1st.

- The Civil Rights Project Manager also prepares the Title VI update report by compiling information on their systems from each of the regional Project Managers. Unless there are significant changes, the Title VI update will be submitted to FTA every three years.

OTD will ensure that the Title VI Notice of Protections Against Discrimination (Beneficiary Notice) should be adopted by the Recipient. This notice should be posted on the Recipient website, if applicable, and disseminated through such measures, including but not limited to, public hearings, posters, flyers, and on transit vehicles. Subrecipient Title VI Programs will be approved by KYTC/OTD.

LIMITED ENGLISH PROFECIENCY (LEP)

The State and its transit agencies must take responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are Limited English Proficient (LEP). Necessary steps will be based on four (4) factors: (1) the number and proportion of LEP persons served or encountered in the eligible service population; (2) the frequency with which LEP individuals come into contact with the program, activity, or service: (3) the nature and importance of the program, activity, or service provided by the program; and, (4) the resources available to the agency and costs. Using the four (4) factors above, and in conjunction with the State transit subrecipients, the State is developing an implementation plan to address the identified needs of the populations served. The plan has five (5) components: (a) identifying LEP persons who need language assistance; (b) developing language assistance measures; (c) training staff; (d) providing notice to LEP persons; and, (e) monitoring and updating the plan. Many resources are being used in the development of this plan, including local planning agencies, universities, social service agencies, and various websites. LEP Plans will be submitted to OTD for review and approval as part of the Title VI Plan.

Reference: Executive Order 13166 on Accessing Transportation for Persons with Limited English Proficiency

Equal Employment Opportunity (EEO)

A11 Sections 5310 and 5311 subrecipients are required to submit to KYTC/OTD assurances indicating their compliance with FTA's Equal Employment Opportunity objectives, as detailed in FTA Circular 4704.1.

If any subrecipient meets the threshold specified in that Circular (receipt of $1,000,000 or more in the previous federal fiscal year, and 50 or more public transit related employees), they will submit an EEO program to OTD for our review and approval documenting their nondiscrimination on the basis of race, color, creed, national origin, sex, age, or disability

Copies will be made available to the FTA upon request~~ed~~.

Disadvantage Business Enterprises (DBE)

All FTA recipients must use Disadvantaged Business Enterprises to the extent possible, for the procurement of office supplies, gasoline, oil, maintenance, and other supplies necessary for the operation of their transit service. Disadvantaged businesses are small businesses which are at least 51% owned by one or more socially and economically disadvantaged individuals. Socially and economically-disadvantaged individuals are defined as citizens of the United States who are: African American, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans, women or other individuals so classified by the Small Business Administration (SBE).

The following is one of the federal model clauses: The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor’s receipt of payment for that work from the {insert agency name}. In addition, [the contractor may not hold retainage from its subcontractors.] [is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.] [is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor’s work by the {insert agency name} and contractor’s receipt of the partial retainage payment related to the subcontractor’s work.]

Protection of the Environment/Environmental Justice

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

- Those having very limited or no environmental effects at all such as planning and technical studies, preliminary design work, program administration, operating assistance and transit vehicle purchases; and
- Those involving more construction and greater potential for off-site impacts, for example new construction or expansion of transit terminals, storage and maintenance garages, office facilities and parking facilities. These can be built and operated without causing significant impacts if they are sited in areas with compatible land use where the primary access routes are adequate to handle additional transit vehicle traffic.

The vehicles, radio and computer equipment and other related equipment items routinely purchased under the Section 5310 program are considered categorical exclusions from FTA's requirements to prepare environmental documentation.

Both Sections 5310 and 5311 subrecipients shall submit declarations of environmental assessments for approval by FTA through their respective application process as necessary. An Environmental Justice analysis should be a part of this process.

Labor Protection

Employee Protection Provisions of S-5333 (b) Special Warranty

KYTC/OTD addresses issues relating to Section 5333 (b) Special Warranty, Labor Protection Provisions, when applications are received from subrecipients for project considerations.

When KYTC/OTD recommends a project for funding, each subrecipient is required to provide a written acceptance of the terms and conditions of the Special Section 5333 (b) Warranty. The written acceptance

provides assurance that the subrecipient agrees to be bound by certain portion of the National (Model) Agreement.

Additionally, subrecipients are required to list all (private or public) providers of public transportation in their services area including their labor status on a form provided with the Section 5311 application.

Each Section 5311 subrecipient will contractually assure compliance with the provisions of Section 5333(b) of the Federal Transit Law, indicating that the project will be carried out in such a manner and upon such terms and conditions as will not adversely affect employees of the Section 5311 project and of any other surface public transportation provider in the subrecipient's service area.

All Section 5311 applicants will assure compliance with the above through the application process.

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

Charter and School Bus Regulations-Oversight

Charter service is an allowable activity on an incidental basis only if the subrecipient transit agency notifies registered charter providers and no registered charter provider responds in the appropriate time or if the trip falls under an “exemption” or “exception” as detailed in the Charter regulation. All allowable incidental charter service must be fully allocated with no charge to federally funded programs. No mileage, trips and hours associated with allowable incidental charter shall be represented in the Subrecipient’s annual operating statistics. Quarterly reports must be completed, using the form in the Charter regulations, and submitted to OTD to put into the Federal TEAM system on a quarterly basis.

Subrecipients must comply with the Charter Regulation 49 CFR 604.11 to request or petition to the Administrator (FTA) for an exception from Charter Service Regulations. KYTC/OTD does not review subrecipient’s request for FTA’s exceptions. However, subrecipients are required to copy KYTC/OTD on all charter exceptions correspondence sent to FTA. All subrecipients considering charter service are responsible for complying with the notification process to registered charter providers as required under FTA Charter regulations, 49 CFR Part 604, and any amendments thereto that may be issued.

All complaints, investigations, hearings and appeals will be handled in accordance with 49 CFR 604. Note: To save time and expense for all concerned, KYTC/OTD and FTA expects all parties to attempt to resolve matters informally before beginning the official complaint process as outlined in 49 CFR 604 Subpart F.

KYTC/OTD reviews compliance with Charter Rule during periodic on-site visits. On receiving a written complaint alleging that a violation has occurred, KYTC/OTD shall investigate and determine whether a violation has occurred. The state will look to the subrecipient to remedy any claims against the subrecipient in association with Charter service in violation of 49 CFR 604. KYTC/OTD may bar a subrecipient from receiving further funding when a continuing pattern of documented violations occurs.

School Bus

No subrecipient shall engage in school bus operations using buses, facilities or equipment funded with federal funds. A subrecipient may, however, use such buses, facilities and equipment for the transportation of school students, personnel and equipment in incidental charter bus operations. Such use of project equipment is subject to part 604 of Federal Public Transit Regulations.

Section 504 and ADA Program Requirements

Section 504 of the Rehabilitation Act of 1973, (Section 504), as amended (29 U.S.C. 794), prohibits discrimination on the basis of handicap by recipients of federal financial assistance. The Americans with Disabilities Act of 1990 (ADA), as amended (42 U.S.C. 12101 et seq.), affords equal opportunity for employment, transportation, telecommunications, and places of public accommodation for people with disabilities.

Both Sections 5310 and 5311 subrecipients must comply with 49 CFR Parts 27, 37, and 38 implementing the ADA and Section 504. These provisions:

- Prohibit discrimination against individuals with disabilities;
- Specify accessibility requirements for the design and construction of new transportation facilities;

- Require that vehicles acquired be accessible to and usable by individuals with disabilities, including individuals using wheelchairs (with limited exceptions for demand responsive systems providing equivalent service to individuals with disabilities} or a demonstration of inability to obtain an accessible vehicle despite good faith efforts to do so;
- Require governmental authorities, including a private non-profit entity "standing in the shoes" of the State as a subrecipient operating fixed route transit must have complementary paratransit plans on file (effective January 26, 1992); and
- Subrecipients of federal funds should ensure compliance in the areas of employment, public services, public accommodations, telecommunications, and other provisions.

Certification is accomplished annually through the funding application packages containing appropriate assurances.

If a Section 5311 subrecipient is operating fixed route transit, the subrecipient must submit an annual Paratransit Plan to the KYTC/OTD no later than January 26. The KYTC/OTD must comment on the Paratransit Plan submitted transmit them to the FTA Regional Office by April 1 of each year in accordance.

KYTC/OTD must also ensure that all vehicles acquired with Section 5311 funds are equipped, maintained, and operated in accordance with 49 CFR Parts 27, 37 and 38 and that service provided does not discriminate against individuals with disabilities Newly constructed facilities, including joint use stops and depots for intercity bus transportation, must comply with ADA accessibility standards.

Standard Assurances

FTA employs an one-time-submission of standard assurances to cover requirements of a repetitive nature which applicants place on file with the FTA Regional Office. This is a statement that the state applicant and local subrecipients will comply with the laws and regulations cited therein to the extent they may apply to the grant project. Each subrecipient must comply with the applicable standard assurances to the extent they may apply to the respective project. Updates are required on an as needed basis.

Buy America Provision

All procurements shall be reviewed by KYTC/OTD staff for the Buy America requirements. No reimbursement for capital expenses will be issued until all required documentation has been received and reviewed by KYTC/OTD and is satisfactorily complete.

Pre-award and Post–delivery Reviews

Subrecipients are required, prior to awarding bid for any rolling stock, to certify that a pre-procurement audit has been conducted to verify that the bid proposed for acceptance appears to comply with the Buy America Requirements and with appropriate Federal Motor Vehicle Safety Standards (FMVSS). KYTC/OTD will monitor this process and ensure compliance through the procurement process.

Compliance with Purchaser's Specifications: The subrecipient must complete a post-delivery purchaser's requirements certification verifying that the buses delivered meet the contract specifications. This must be completed before a bus title is transferred to the state or before a bus is placed into revenue service, whichever is first. The post-delivery certification is based on the state's visual inspections and road tests and, if required, the resident inspector's monitoring of the final assembly process and final report of manufacturing activities. The requirement to conduct an audit for compliance with purchaser's requirements and sign a certification applies to all purchases of revenue rolling stock, even those under the federal simplified acquisition threshold. Grantees are required to have an inspector during final assembly process if they meet the following criteria:

- Grantees in an urbanized areas with populations of more than 200,000 that are purchasing more than 10 buses
- Grantees in areas with populations of 200,000 or less that are purchasing more than 20 buses

FTA does not require in-plant inspectors for any number of unmodified vans manufactured by the automobile companies. FTA requires only a visual inspection and road test after delivery for such procurements.

In the case of consolidated procurements on behalf of multiple subrecipients, the in-plant inspection requirement is triggered only if any single subrecipient will receive more than 10 or more than 20 vehicles, depending on area size. One in-plant inspector can meet the requirement for multiple grantees. The inspector may not be an agent or employee of the manufacturer. The inspector must prepare a report providing accurate

records of all vehicle construction activities and summarizing how the construction and operational characteristics of the vehicles met (or did not meet) the contract specifications**.** The cost of such an inspection exercise is considered an eligible project cost. The subrecipient shall perform a post-delivery review of all vehicle procurements, after delivery and prior to acceptance, The subrecipient must certify that the vehicles have been inspected and comply with the procurement specifications, as well as with the Buy America and with FMVSS provisions.

Buy America Requirement

Section 165 of the Surface Transportation Assistance Act of 1982 provides that, with exceptions, federal funds may not be obligated for public transportation projects unless steel and manufactured products used in such projects are produced in the United States. The Intermodal Surface Transportation Efficiency Act of l991 added iron to the commodities covered.

Subrecipients must comply with 49 CFR Part 661 and any amendments thereto. Buy America requirements apply to all purchases above **$100,000**, including materials or supplies funded as operating costs. Buy America waivers must be submitted to FTA for approval. There are four exceptions to the basic requirement:

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

Clean Air Act

The Clean Air Act Amendments of 1990 establish many new substantive requirements in order to bring air quality regions, which currently violate the National Ambient Air Quality Standards into attainment by prescribed dates.

The principal requirement for which both Section 5310 and Section 5311 subrecipients must be aware of is the transportation/air quality conformity review process. In general, transportation plans, programs, and projects must "conform" with approved State (air quality) Implementation Plans before FHWA or FTA can fund them.

Most of the projects typically funded under Section 5311 have been exempted by regulation from the conformity review process, e.g., operating assistance, purchase, and rehabilitation of transit vehicles, operating equipment and construction of most storage and maintenance facilities. However, this could become an issue for certain large facilities, e.g.' transit terminals and park-and-ride facilities. A complete list of exempted highway and transit projects is found in 40 CFR 93.126. Section 5311 projects should therefore consult with FTA when in question, as early as possible in the development of their programs to establish the need for further analysis to support FTA's conformity determination.

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

Safety

Safety is paramount and inherent in the provision Of KYTC/OTD services both at the organizational level as well as to the ultimate customer - the transit passenger.

FTA's authority in the area of transit safety is set forth in Section 5329 of the Federal Transit Law. Under Section 5329, FTA may withhold further financial assistance from any grantee that fails to correct any condition that FTA believes "creates a serious hazard of death or injury."

As the designated recipient for federal funds in Kentucky, the KYTC/OTD is empowered to carry out the authority indicated above. KYTC/OTD will also exercise authority to remove vehicles and facilities from service if it is deemed that identified vehicles or facilities present an unsafe environment for employees and transit customers.

Subrecipient transit agencies will be encouraged to develop a Safety, Security, and Emergency Preparedness Implementation Plan.

Under MAP-21 grants FTA the authority to establish and enforce a new comprehensive framework to oversee the safety of public transportation throughout the United States as it pertains to heavy rail, light rail, buses, ferries, and streetcars. The law requires, among other things, that FTA update the State Safety Oversight (SSO) program to ensure that rail transit systems are meeting basic, common-sense safety requirements. The law also includes important new safety provisions for bus-only operators. FTA will implement the new law in consultation with the transit community and the U.S. Department of Transportation (DOT) Transit Rail Advisory Committee for Safety (TRACS), which has been working since September of 2010 to help guide this effort.

FTA must develop safety performance criteria for all modes of transportation.

Vehicle Safety Performance Standards

• FTA must develop minimum safety performance standards for transit vehicles not regulated by other modes in DOT or any other federal agency.

• The Bus Testing Program will be required to incorporate the new safety performance standards into a new Pass/Fail rating system.

Public Transportation Safety Certification Training Program for Federal and State Personnel

• FTA will develop a public transportation safety certification training program that applies to transit grantees regardless of mode. The program is for federal and state employees or other personnel who conduct audits as well as employees of public transportation agencies responsible for safety oversight.

• Section 5307 and 5311 recipients may use up to 0.5 percent of formula funds to pay for up to 80% of the cost to participate in the public transportation safety certification training program for SSO agency employees.

Transit Agency Safety Plans for all Federal Transit Recipients

• All recipients of FTA funding will develop an agency safety plan and certify that the plan meets FTA requirements. At a minimum, these plans must include: o Strategies for identifying risks and minimizing exposure to hazards.

• An adequately trained safety officer to report directly to the general manager or equivalent.

• Performance targets based on the safety performance criteria above.

• Staff training program.

• For recipients receiving 5311 funds, the plan may be drafted and certified by the recipient or the state.

• For recipients receiving 5307 funds, FTA must issue a rule designating the small public transportation providers or systems that may have their safety plans drafted or certified by the state.

Additional Authorities

• FTA has the authority to inspect and audit all public transportation systems; to make reports and issue directives with respect to the safety of public transportation systems; to issue subpoenas and take depositions; to require the production of documents; to prescribe recordkeeping and reporting requirements; to investigate public transportation accidents and incidents; to enter and inspect equipment, rolling stock, operations and relevant records; and to issue regulations to carry out section 5329.

• FTA has enforcement authority, and is permitted to issue directives, require more frequent oversight, impose more frequent reporting requirements, and require that formula grant funds be spent to correct safety deficiencies before funds are spent on other projects.

Drug and Alcohol Program

§5311 recipients must comply with the provisions of USDOT and FTA Drug and Alcohol Rules: 49 CFR Part 655, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations", as amended and 49 CFR Part 40, "Transportation Workplace Drug and Alcohol Testing Programs", as amended. For those §5310 systems with vehicles requiring CDL licenses, Project Managers will assist with compliance with the USDOT/Federal Motor Carrier Safety Administration regulations, 49 CFR Part 382, "Controlled Substances and Alcohol Use and Testing." The basic components of these regulations are:

Policy. Each §5311 recipient must have a policy statement on drug use and alcohol misuse in the workplace. The policy must identify which categories of employees are subject to testing; it must describe prohibited behavior; it must describe testing procedures; and it must describe the recipient agency's consequences for violating the drug and alcohol regulations. KYTC/OTD must have an updated, Board-approved Policy on file with this office. The recipient must submit an updated policy with each grant application. The Project Manager will assist the recipient in policy development and in developing a policy for approval. The Project Manager will determine if policies are in compliance and are up-to-date. The Project Manager will determine that all recipient employees receive a copy of the policy and all updates.

Education and Training The Project Manager will assure that the following training or education requirements are followed:

1. Educational materials must be provided to employees explaining the requirements of the FTA drug and alcohol testing regulations and the recipient's policies and procedures;

2. Information on the effects and consequences for substance abuse on personal health, safety and the work site, as well as indicators of substance abuse must be provided to employees; and,

3. Recipient supervisors must receive additional training on the physical, behavioral, and performance indicators of substance abuse if they are responsible for determining Reasonable Suspicion testing. Every two years or when there are major regulation changes, KYTC/OTD provides regional and individual training to recipient's on the regulations. KYTC/OTD may hold individual sessions for Supervisory training. KYTC/OTD

may supply training material to the recipient's so that they may conduct in-house training and provide posters and pamphlets.

Testing: KYTC/OTD initiated a statewide drug and alcohol consortium made up of §5311 and §5310 systems. A consortium committee (Committee) guides the direction of the recipient's testing programs. The Committee consists of eleven recipient members and two members from KYTC/OTD. The Consortium Committee has contracted with a Third Party Administrator (TPA) to help manage the program. The TPA sets up, contracts with collection sites, and provides the Medical Review Officer services. The TPA is knowledgeable regarding the USDOT/FTA testing regulations. Each recipient has a separate account with the TPA under the umbrella of Kentucky Public Transit. The TPA may also provide training material and regulatory materials.

Random Testing: KYTC/OTD maintains one large FTA/FMCSA pool and conducts random testing. KYTC/OTD also maintains another non-Federal pool. A recipient may elect to have its own specific USDOT or non-Federal pools. KYTC/OTD also maintains these pools. All FTA pools follow the FTA guidelines. The D & A Manager maintains the pools through the receipt of an Employee Status form completed and regularly updated by each recipient. As a name is added or deleted to a pool, the computer assigned number by a name will change. No person should maintain the same number for any length of time. The D & A Manager and one other Public Transit staff member conduct random drawings each month. Drawings are unannounced. KYTC/OTD uses a computer-generated random draw program. The D & A Manager will phone each recipient who has an employee drawn for testing. D & A Manager will also mail a letter to the recipient's authorized person. Recipient will have thirty days to ensure a completed test. The recipient will send a specific form confidentially, to the D & A Manager signifying that the employee has undergone random testing. If a pulled employee cannot be tested within the 30-day time period, a written explanation must be supplied by the recipient. The D & A Manager is responsible for ensuring that all federally required random testing percentages are complete. As a deterrent, KYTC/OTD will maintain the 50% random drug draw.

When there are major regulation changes, KYTC/OTD may provide regional and individual training to recipient's on the regulations. KYTC/OTD may hold individual sessions for Supervisory training. KYTC/OTD

may supply training material to the recipient's so that they may conduct in-house training and provide posters and pamphlets.

Project Manager Responsibilities: The Project Manager must assure that a recipient's testing program is set up according to FTA regulations. The Project Manager must assure that the recipient knows when to test, why to test, and what to test for. The Project Manager must assure that the recipient assures the privacy and dignity of the transit employee at all times. Project Mangers will inspect area collection sites during some §5311 Compliance Reviews to assure that the sites have an understanding and abide by the testing regulations in 49 CFR Part 40 as amended.

Compliance: KYTC/OTD will use the following guidelines to ensure compliance with the annual reporting requirements and to prepare and maintain a summary of the results of the anti-drug and alcohol misuse testing programs performed during the previous year (MIS reporting):

Recipients submit a monthly drug testing report which will also show if the testing is spread out during the hours and days the transit system is in operation. (See Appendix K)

Project Manager reviews and gives a copy of the report to the Drug and Alcohol Manager;

Drug and Alcohol manager incorporates the reports into a spreadsheet for each agency;

A letter goes out in to each recipient stating that all monthly reports for the calendar year are to be verified and re-submitted to KYTC/OTD by specified date;

The electronic format is received from FTA with appropriate reporting instructions;

Upon receipt of all reports from a recipient, the D & A Manager determines what report format should be used for each recipient, i.e., short form if no positive drug or alcohol results were reported or the more extensive long form if a recipient reported a positive drug test or a positive alcohol result;

The D & A Manager completes the appropriate drug MIS form and the appropriate alcohol MIS form for each recipient. The completed reports are sent to the recipient with a request to have the appropriate official sign the front page of each report and make changes on the other pages and to return by a specified date. Explanations are required with any changes made;

The D & A Manager reconciles all differences and finalizes each report. The final and full MIS report, for all recipient's for the previous year, is maintained on file; and, finally,

When requested by FTA, or its designated representative, KYTC/OTD will submit the full report or specific recipient reports to FTA's Office of Safety and Security by March 15th.

DRUG-FREE WORKPLACE ACT

The Drug-Free Workplace Act of 1988, as amended, as well as 41 U.S.C §8103 requires all grantees receiving grants from any state agency to certify they will maintain a drug-free workplace.

Private Sector Participation

FTA requires that the public become involved in the application process for all FTA grant programs. §5310 and §5311 applicants must receive support letters from local transportation providers and local government showing their concurrence with the proposed application. §5311 applicants are encouraged to involve the public in every step of the application process. Both §5310 and §5311 applicants are required to place an advertisement in their local and a statewide newspaper(s) announcing their intention to apply for a capital FTA grant. Advertisement must run not less than seven or more then 21 days prior to the date of the hearing. Each year the KYTC/OTD will run an advertisement, thus ascertaining §5311 applications are competitive:

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

Under the requirements of 49 U.S.C. 5323(a)(1) States or local governmental authorities may use FTA funds to operate public transportation service in competition with or in addition to transportation service provided by an existing public transportation company, only if" the grantee "provides for the participation of private companies engaged in public transportation to the maximum extent feasible."

The most comprehensive FTA document regarding private enterprise requirements is a report titled *Private Enterprise Participation in Transportation Planning and Service Delivery*. The report is available on FTA's website at: http://www.fta.dot.gov/documents/Private_Enterprise_Brochure.doc

In view of the Kentucky Transportation Cabinet's continued commitment, to the maximum extent feasible, to the involvement of private enterprise in the provision of mass transit services, the following applies: Applicants must provide reasonable notice to transportation providers regarding proposed services and opportunities for their participation in such services. Applicants must provide in each application certified receipts of letters that Applicant sent to private for profit transportation providers notifying them of all applicable Public hearings and coordinated meetings.

To ensure that all interested persons, businesses, and agencies have been notified of a subrecipient's intention to provide transportation services and that they have adequate opportunity to comment, the subrecipient must issue a public notice describing its proposed services. The notice should invite any interested private operator within the service area to comment or request a public hearing on the proposed services by written notice to the subrecipient. A minimum of 15 days response time must be provided.

SAMPLE CALL FOR PROJECTS

KENTUCKY TRANSPORTATION CABINET
OFFICE OF TRANSPORTATION DELIVERY
SOLICITATION OF PROPOSALS FOR FEDERAL TRANSIT GRANTS
STATE FISCAL YEAR 2015 (July 1, 2014 through June 30, 2015)

The Office of Transportation Delivery of the Kentucky Transportation Cabinet is seeking proposals from public and non-profit entities to assist in the delivery of public and specialized transportation services. Services would be provided under 49 U.S.C. Sections 5303, 5304, 5307, 5310, 5311, and 5339, including all amendments. These transportation programs have been reauthorized through MAP-21 (Moving Ahead for Progress in the 21st Century).

Section 5311 provides Federal operating, planning and capital assistance with required local match for general public transportation assistance in rural areas with populations less than 50,000. Section 5311 coordinates programs and services to improve service levels in areas with minimal service and assists in the maintenance and improvement of public transportation systems in rural areas. This program also provides services to low-income individuals for job access and reverse commute projects. Grants to support public transportation in the Appalachian region are also available under this program. To apply for assistance as a first-time applicant under Section 5311 or Section 5311(f) rural intercity, please notify this office in writing by February 28, 2014 of your intent to submit a proposal. Proposals are subject to availability of funding.

Section 5307 provides Federal operating, capital and transit planning assistance with required local match for small urban area general public transportation. This program also provides services to low-income individuals to access jobs and for reverse commute activities. To apply for assistance as a first-time applicant to provide these services in the **Elizabethtown-Radcliff small urban area**, please notify this office in writing by February 28, 2014 of your intent to submit a proposal. Proposals are subject to availability of funding.

Section 5303 provides Federal transit planning assistance with required local match to assist with the development of long-range transportation plans and transportation improvement programs for metropolitan planning areas of the State as well as the establishment of performance targets that address national transit

performance measures issued by the US DOT and based on goals outlined in law. To apply for assistance to provide these services, a draft work plan must be submitted to this office by April 1, 2014. Proposals are subject to availability of funding.

Section 5304 provides Federal statewide and non-metropolitan transit planning assistance with required local match to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people while working and coordinating with the State, regional transportation planning organizations and public transit operators. To apply for assistance as a first-time applicant to provide these services, please notify this office in writing by February 28, 2014 of your intent to submit a proposal. Proposals are subject to availability of funding.

Section 5339 provides funding to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities. This program requires up to a 20% local match. Final applications are due in the Office of Transportation Delivery by April 1, 2014. Proposals are subject to availability of funding. **Rural and small urban systems in Kentucky will apply directly to the State for these funds**.

COORDINATED PUBLIC TRANSIT-HUMAN SERVICE PLAN: (applicants below must be part of and included in an approved, locally-developed Coordinated Plan.) **In addition, Veterans and Military Service Organizations and VA Medical Centers must be incorporated into the Coordinated Plan as the Commonwealth moves forward with the Veterans Transportation and Community Living Initiative Grant.**

Section 5310 provides Federal capital assistance with required local match (20%) for eligible agencies that help increase the mobility of seniors and persons with disabilities in urban or nonurbanized areas where transportation services are unavailable, insufficient, or inappropriate. At least 55% of program funds MUST be spent on these types of capital programs. The remaining 45% of the State allocation MAY be used to provide funding for services for individuals with disabilities that go above and beyond the requirements of the Americans with Disabilities Act (ADA). These funds may be used for operating expenses at a 50% local match or for capital expense with a 20% required match. Local transit providers must participate in the

development of a Coordinated Public Transit-Human Service Transportation Plan. To apply for assistance under Section 5310 as a first-time applicant, please notify this office in writing by February 28, 2014 of your intent to submit a proposal. Proposals are subject to availability of funding.

Final Applications for these programs are due in the Office of Transportation Delivery by April 1, 2014 for the 2015 State Fiscal Year beginning July 1, 2014. All proposals and related documents shall be subject to financial assistance between the Kentucky Transportation Cabinet and the United States Department of Transportation/Federal Transit Administration. Transportation entities receiving Federal assistance will be required to comply with all applicable Federal, State and local laws and regulations.

Final applications should be forwarded to Vickie S. Bourne, Executive Director, Office of Transportation Delivery, Kentucky Transportation Cabinet, 200 Mero Street, Frankfort, KY 40622 by close of business on April 1, 2014. Correspondence or questions shall be directed to Eric Perez at the address listed above or by telephone at (502) 564-7433 or by FAX at (502) 564-2058.

The Kentucky Transportation Cabinet's goal is to "provide a safe, efficient, environmentally sound and fiscally responsible transportation system which promotes economic growth and enhances the quality of life in Kentucky." The Kentucky Transportation Cabinet is an equal opportunity employer M/F/D.

Commercial Driver License

Effective April 1, 1992, all drivers of vehicles designed to transport more than 15 persons (including the driver) must have a Commercial Drivers License (CDL). Mechanics that drive the vehicles must also have a CDL.

Chapter 11: Project Reporting, Monitoring and On-Site Reviews

Background

The Federal Transit Administration gives the State, to the extent permitted by law, maximum discretion in designing and managing the Sections 5310/5311 Programs. FTA staff provides overall policy for the respective programs; apportion funds annually to the State; develop and implement financial management procedures; and conduct national program reviews and evaluations.

The FTA defers to the State, where possible, the development of specific program standards, criteria, procedures and policies in order to provide Kentucky the flexibility to standardize its management of these federal programs and related state programs.

All participants in the 5310/5311 formula grant programs in Kentucky are required to complete and submit periodic forms designed to capture data that reflects key performance and utilization aspects of their efforts in rendering transportation services.

Project Monitoring and Reporting

Participants in the Section 5311 program are required to monitor and report on a variety of items, including ridership, revenues, expenses, vehicle and equipment management, drug and alcohol testing, involvement of DBE, service coordination efforts, and Board meeting minutes. Subrecipients file monthly and KYTC/OTD files DBE reports to FTA semi-annually and annually.

A continuous system of checks and balances is built into project monitoring through various means such as subrecipient reports, invoice processing, and the generation of supplemental agreements. These methods are enhanced through open channels of communication, site visits, and a compliance review process.

The open channels of communication and compliance review process are complementary and intended to provide a qualitative closing the "loop" method by continually ensuring that the subrecipient(s) requirements, as identified in the application and resultant contract, are being met through what KYTC/OTD is providing.

Required Reporting

Reporting

FTA requires KYTC/OTD to provide quarterly reports on the progress of their §5303, §5310, §5311 and DBE programs and yearly reports on the progress of the Drug & Alcohol Testing Programs (Management Information System) and 5311 ADA Paratransit Plans.

National Transit Database Program

The National Transit Database (NTD) is the USDOT/Federal Transit Administration's primary national database for statistics on the transit industry. Section 5311(b)(4) specifies that each Section 5311 recipient shall submit an annual report containing information on capital investment, operations, and service provided under Section 5311. Items to be reported include total annual revenue; sources of revenue; total annual operating costs; total annual capital costs; fleet size and type, and related facilities; revenue vehicle miles; and ridership.

The Office of Transportation Delivery of the Kentucky Transportation Cabinet, as the State agency responsible for administering FTA's Formula Program for Non-Urbanized Areas (Section 5311), is responsible for ensuring that data is collected and compiled for the data collection and compilation for each Section 5311 subrecipient and transportation provider in the State that benefits from the grant. OTD collects the data for the National Transit Database Program through the monthly submission of uniform operating and financial reports from each transit agency. The information is accumulated and compiled into the format required by the National Transit Database Program. The report is submitted annually to the National Transit Database on the date mandated in the Rural Reporting Manual.

1. Recipient Requirements -The recipient must provide KYTC/OTD with the following monthly reports:
    - Drug & Alcohol Testing and Drug and Alcohol Employee Pool Status.
    - JARC Report for all JARC recipients
    - DBE Report
    - Monthly budget line item and invoice & trip information
    - Section 5311/5307 Statistical Report

Quarterly vehicle utilization reports are required for vehicles purchased through FTA Funds 5310, 5311, 5339, 5309. Quarterly vehicle utilization reports are required for vehicles purchased through ARRA.

Recipient should direct any questions concerning these reports to its Project Manager.

Compliance Reviews

- The regional Project Manager on each Subrecipient performs on-site Compliance Reviews annually. Project Manager will conduct a follow-up review within six months if the Project Manager has any areas of concern. Project Managers will have a due date from the date of the compliance review or follow up review to write up the report for review by the Branch Manager. Project Managers will inspect at least one vehicle each review for safety equipment, spill kits, bus card, etc. Periodically, the Project Manager will ride on a bus route to talk to the riders and to observe driver operations, lift operations, etc. KYTC/OTD maintains all compliance review reports in a FY Compliance Notebook.
- On-site Compliance Reviews are performed by the regional Project Manager on §5310, agencies at the same time the §5311 review is performed if the system receives funding from the respective programs. On-site Compliance Reviews are performed on §5310-only agencies periodically. Project Manager will perform a follow-up review within six months if necessary. KYTC/OTD maintains all compliance review reports in a FY Compliance Notebook.
- The Project Manager assigned to ADA will respond to any general public or transit concerns or questions regarding the Americans with Disabilities Act of 1990. The ADA Project Manager will send

out letters in January to the Section 5311 fixed-route systems regarding the annual ADA certification. If the regional Project Manager agrees that the transit system's paratransit service is fully meeting all service criteria, then only the ADA assurance is required. The ADA Project Manager should receive the signed assurance by January 26th. KYTC/OTD forwards the signed assurances to FTA by April 1st. Future or new §5311 fixed route systems will be required to go through the entire ADA Paratransit Plan process, including public hearings and the development of a ongoing mechanism for the participation of individuals with disabilities in service decisions.

- The Civil Rights Project Manager is responsible for the Disadvantaged Business Enterprise (DBE) Program. The KYTC/Office for Civil Rights and Small Business Development (OCRSBD) certifies all businesses through the Unification Certification Program. All certified firms are listed on the cabinet's website. The new firms are added to the website as they are approved. With each annual §5311 sub-grantee budget, a goal is set for eligible purchases and approved by KYTC/OTD as part of a sub-grantee's annual budget. Transit systems report DBE eligible purchases each month. The Project Managers give this information to the Civil Rights Project Manager for compilation. KYTC/OTD uses this information in the Semi-annual DBE reports prepared by the Civil Rights Project Manager and submitted to FTA. The Civil Rights Project Manager, the Branch Manager, Staff Assistant and the Executive Director in conjunction with the OCRSBD reports on file in the Cabinet, prepare the every three (3) years goal report. KYTC/OTD submits this report to FTA by August 1st.
- The Civil Rights Project Manager also prepares the Title VI update report by compiling information from the subrecipient Title VI Plans in accordance with the Title VI Circular. Unless there are significant changes, the Title VI update will be submitted to FTA every three years.
- Once a year, the regional Project Manager will review all the pertinent fiscal files of a §5311 transit system. The Project Manager will review all receipts, invoices, etc., for each line item of a specific month's request. If there are audit or budget concerns, KYTC/OTD may request additional backup documentation on various months.

- Each Project Manager is responsible for all aspects of grant compliance. Therefore, as an issue arises, the Project Manager shall investigate and offer technical assistance to the sub-grantee on issues such as charter, Buy America, Drug and Alcohol Testing, Private Sector, Purchases, Maintenance, RTAP/Training, etc.
- Below is the compliance review checklist utilized by each Project Manager annually:

Project Invoicing

Invoicing provides KYTC/OTD to insure the quality progression of a project. It also provides an excellent opportunity for the interaction of the various staff members at KYTC/OTD who are involved with a project. All subrecipients are required to use a Standard Line Item invoice developed by OTD.

The subrecipients invoice is first routed to the Fiscal Manager. The Fiscal Manager/Branch Manager/Administrative Specialist logs the invoice in and the invoice is dispatched to the appropriate Project Manager for review and approval. Once the Project Manager approves, the invoice is then returned back to the Branch Manager/Fiscal Manager for payment in the statewide accounting system (EMARS). After the invoice is entered into EMARS it must be reviewed and approved by the Staff Assistant/Executive Director of OTD & the Division of Accounts/Pre-Audit.

KYTC/OTD reserves the right to request, at such time and in such manner as it requires, any other project reports to adequately monitor progress or as may be required under federal or state regulations.

The aspect of inventory control is crucial in identifying the myriad of resources distributed throughout the state. It is an issue directly related to project management and is especially relevant to increased fleet acquisition and spare ratios. In capital equipment requests, replacement versus expansion plays an integral role in the decision-making process.

Chapter 12: Technical and Management Assistance

Office of Transportation Delivery is comprised of a staff of financial, planning, project management and operational specialists who are available to provide a wide range of technical assistance to local areas upon request. Additionally, the KYTC/OTD may draw upon other resources within KYTC (i.e. Legal, Data Processing, Purchasing, Central Accounting, Auditing Safety, Civil Rights and Engineering) as well as contracted professional services to provide technical and management assistance to the Sections 5310/5311/ Programs.

Technical and Management Assistance

KYTC/OTD will be available to provide technical and management assistance to existing, new, and future projects including but not limited to the following areas:

- The preparation of project grant applications;
- The preparation of transportation development plans;
- Transportation coordination issues;
- The involvement of private sector transportation providers in service delivery;
- Grants management functions including invoicing, record keeping and accounting issues;
- System operations and management.
- Procurement and third party contracting;
- Development and provision of driver training and preventive maintenance programs;
- Development and review of vehicle specifications;
- Development and evaluation of service routes and schedules;
- Participation in local planning issues; Development of local financing strategies;
- Establishment of programs for providing service to the Older adults and people with disabilities;
- The establishment of programs to comply with civil rights requirements;
- Procedural matters relating to facility construction; and
- Other issues/requests and needs, which may arise from time to time