

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, 5311, ~~5316 and 5317~~ 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 public hearing requirement in 49 U.S.C. 5323(b) for capital projects was amended by SAFETEA-LU.~~ The law now 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.

~~Under 49 U.S.C. Section 5323(b), any application for a project that will “substantially affect a community or the public transportation service of a community” shall include a certification to the effect that the applicant has:~~

- ~~• Provided an adequate opportunity for public review and comment on the project;~~
- ~~• After providing notice, held a public hearing on the project if the project affects significant economic, social or environmental interests;~~
- ~~• Considered the economic, social, and environmental effects of the project; and~~
- ~~• Found that the project is consistent with official plans for developing the community.~~

~~Title 49 U.S.C. 5323(b)(2) further states, "Notice of hearings under this subsection shall include a concise description of the proposed project; and shall be published in a newspaper of general circulation in the geographic area the project will serve."~~

~~Section 5323(b) must be read in concert with Section 5324(b) which states that FTA must review the public comments and hearing transcript to ascertain that an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest in the project, and that FTA must make a written finding to this effect.~~

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 1 st	Receipt of all proposals
April/May	Proposals reviewed by KYTC/OTD;
May 30 th	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.