



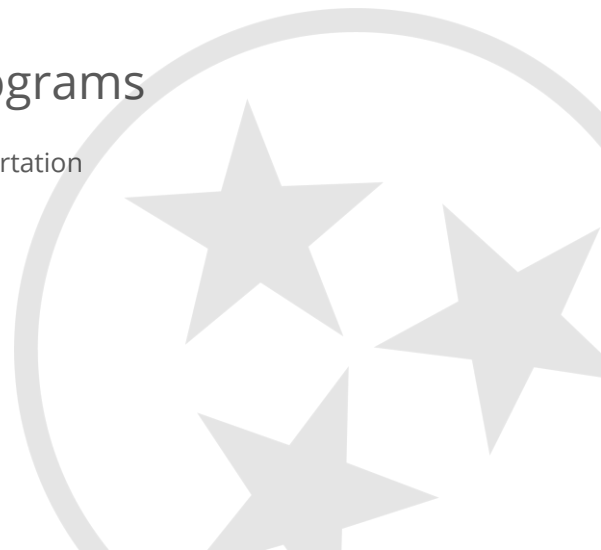
**TDOT**  
Department of  
Transportation

# State Management Plan

for Federal Transit Administration Programs

Tennessee Department of Transportation | Office of Public Transportation

Approved by the Federal Transit Administration on July 10, 2024



## **Accessible Formats**

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# Chapter 1. Introduction

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The Federal Transit Administration (FTA) requires each state administering FTA programs to develop a State Management Plan to document policies and procedures for certain programs. This document describes Tennessee's policies and procedures for administering the state managed portions of:

- 49 USC §5310 Elderly Individuals and Individuals with Disabilities Program
- 49 USC §5311 Nonurbanized Area Formula Program
- 49 USC §5317 New Freedom Program
- 49 USC §5339 Bus and Bus Facility

This document supersedes the State Management Plan that was approved by the FTA in July of 2021. This State Management Plan includes updates to Asset Management, Procurement, grantee types based on the Census 2020 results, as well as programmatic clarifications and minor formatting. The update also removes the 49 USC §5316 Job Access and Reverse Commute Program from the plan, as all program funding is expended at the time of revision.

Prior to submitting the State Management Plan to the FTA, a draft of the amended document was circulated and comments were solicited among stakeholders, including Divisions within TDOT (Civil Rights, Legal, Finance, Programming, Long Range Planning, Information Technology), transit agencies, nonprofit subrecipients of 5310 funds, Metropolitan Planning Organizations, and the Tennessee Public Transportation Association. Emailed, verbal, and written comments were accepted from January 12, 2024, to February 12, 2024. All public comments were recorded in a Public Comment Inventory spreadsheet along with information about the disposition of each. The Public Comment Inventory is available upon request.

## Chapter 2. Program Goals and Objectives

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5310	<ul style="list-style-type: none"> <li>• Ensure that elderly persons and persons with disabilities have the same rights as all people to utilize transportation facilities and services</li> <li>• Continue to provide for the special needs of elderly persons and persons with disabilities for which transportation services are unavailable, insufficient or inappropriate</li> <li>• To support public transportation services beyond those required by the Americans with Disabilities (ADA) Act of 1990</li> </ul>
5311	<ul style="list-style-type: none"> <li>• Ensure that at least minimal levels of service are available in non-urbanized areas to health care, shopping, education, employment, public services, and recreation</li> <li>• Provide technical assistance and other support services to assist in the development, improvement, maintenance, and use of public transportation systems to ensure that 5311 operations are well managed, effective, and efficient</li> <li>• Encourage coordination in the use of funds and the delivery of services to maximize the effectiveness of all available funding sources (other federal programs as well as state and local funds)</li> </ul>
5317	<ul style="list-style-type: none"> <li>• Provide funds for new public transit service that goes beyond current ADA requirements</li> <li>• Provide funds for capital improvements that go beyond current ADA requirements.</li> <li>• Support mobility management projects and activities intended to enhance transportation access and build coordination among transportation providers</li> </ul>
5339	<ul style="list-style-type: none"> <li>• Ensure the continuation of public transportation services.</li> <li>• Provide funds to assist eligible recipients in financing capital projects.</li> </ul>

## Chapter 3. Roles and Responsibilities

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### 3.1 Federal Transit Administration (FTA)

#### 3.1.1 Federal Transit Administration Headquarters

FTA headquarters is responsible for:

- Providing overall policy and program guidance
- The provision of the annual funds apportioned to the states
- The development and implementation of financial management procedures
- The initiation and management of program support activities
- Conducting national program reviews and evaluations

#### 3.1.2 Federal Transit Administration Region IV Office

The Tennessee Department of Transportation falls under the FTA Region IV office located in Atlanta, Georgia. The FTA regional offices have the responsibility for administration of the programs. 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 Plan
- Providing technical assistance and advice to the states as needed
- Performing state management reviews every three years, or as circumstances warrant

### 3.2 State of Tennessee

#### 3.2.1 Tennessee Department of Transportation (TDOT)

TDOT is authorized under Tennessee Code Annotated, Title 13 Public Planning and Housing, Chapter 10, Mass Transit, Sections 13-10-101 thru 13-10-109, to enter into agreements with any bureau, department, or agency of the United States government dealing with or concerning the planning, design, acquisition, construction, maintenance, or supervision of any public mass transportation program or system, or the operation thereof. TDOT may additionally enter into agreements with any other bureau, agency or

department of the state; any city/municipality, county, school district, or other political entity of this state; or any individual, firm, partnership, corporation, association, or other organization to carry out the foregoing. TDOT may contract with consultants to provide technical assistance as necessary.

### 3.2.1.1 **Commissioner of TDOT**

The Commissioner of TDOT serves as the Governor’s representative in all matters dealing with the United States Department of Transportation. The Commissioner signs all contracts between TDOT and subrecipients of FTA funds.

### 3.2.1.2 **Division of Multimodal Transportation Resources (DMTR)**

Within TDOT, the Division of Multimodal Transportation Resources (DMTR) administers all FTA programs in the state for which TDOT serves as the Designated Recipient. DMTR has the primary responsibility for the following:

- Developing and implementing public transportation programs throughout the state
- Notifying eligible subrecipients of the availability of programs
- Developing project selection criteria
- Ensuring fair and equitable distribution of program funds
- Ensuring adherence to federal program guidelines by all subrecipients
- Ensuring the maximum feasible coordination of transit resources at the state and local level
- Providing private transit operators with the opportunity to participate to the maximum extent feasible by evaluating proposals received from subrecipients interested in working with private transit providers or received directly from private transit providers
- Providing satisfactory continuing control over assets purchased with state and federal dollars
- Regularly monitoring subrecipients to ensure compliance with FTA’s regulations
- Ensuring that subrecipients possess the necessary fiscal and managerial capability to implement and manage the proposed projects
- Providing technical assistance to subrecipients
- Reporting to FTA on behalf of subrecipients

#### **Programs for which TDOT is the Designated Recipient**

<b>Programs</b>	<b>Authorizing Legislation</b>
§5303 Metropolitan Planning	SAFETEA-LU, MAP-21, FAST Act, BIL
§5304 Statewide Planning	SAFETEA-LU, MAP-21, FAST Act, BIL
§5307 Urbanized Area Program (Small Urban)	SAFETEA-LU, MAP-21, FAST Act, BIL
§5310 Elderly Individuals and Individuals with	SAFETEA-LU, MAP-21, FAST Act, BIL

Disabilities Program	
§5311 Nonurbanized Area Formula Program	SAFETEA-LU, MAP-21, FAST Act, BIL
§5317 New Freedom Program	SAFETEA-LU, MAP-21
§5320 Paul S. Sarbanes Transit in the Parks Program	SAFETEA-LU
§5309 Earmarks and Discretionary Awards	SAFETEA-LU
§5329 State Safety Oversight Program	MAP-21, FAST Act, BIL
§5339 Bus and Bus Facilities Program (Small Urban & Statewide funds)	MAP-21, FAST Act, BIL
§5309 Discretionary Capital Investment Grants	MAP-21, FAST Act, BIL
§5339 Bus and Bus Facilities Discretionary Grants	FAST Act, BIL

### 3.2.1.3 Other Divisions within TDOT

Division of Finance	<ul style="list-style-type: none"> <li>• Prepares TDOT's budget for submission to the General Assembly, including planned state and federal funds for transit</li> <li>• Reviews and approves the encumbrance of funds for transit contracts</li> <li>• Office of External Audit evaluates the financial practices of subrecipients</li> <li>• Reviews indirect cost allocation plans for those agencies for whom TDOT serves as the state cognizant agency</li> </ul>
Division of Centralized Accounting	<ul style="list-style-type: none"> <li>• Embedded employees from the Tennessee Department of Finance &amp; Administration</li> <li>• Performs ECHO draws from FTA</li> <li>• Submits FFR forms to FTA</li> <li>• Reviews and approves reimbursement payments to subrecipients</li> </ul>
General Counsel's Office	<ul style="list-style-type: none"> <li>• Reviews and approves transit contracts</li> <li>• Executes TDOT's Certifications and Assurances</li> <li>• Provides legal counsel as needed</li> </ul>
Division of Civil Rights	<ul style="list-style-type: none"> <li>• Administers Tennessee's Uniform Certification Program (TNUCP)</li> <li>• Develop DBE Goal and Methodology with DMTR and submits to FTA</li> <li>• Facilitates DBE Uniform Report with DMTR and submits to FTA</li> <li>• Develop the TDOT Title VI Program and submits to FTA</li> <li>• Evaluates Title VI compliance of subrecipients and provides assistance in compliance as needed</li> <li>• Evaluates EEO and Affirmative Action Plans of subrecipients and provides assistance in compliance as needed</li> </ul>
Division of Long Range Planning	<ul style="list-style-type: none"> <li>• Develops the Statewide Long Range Transportation Plan</li> <li>• Reviews urbanized areas' Unified Planning Work Programs (UPWP), long range plans, Transportation Improvement Programs (TIP) and TIP amendments, and provides opportunity for DMTR to comment</li> <li>• Administers the Congestion Mitigation Air Quality (CMAQ) program, Carbon Reduction Program, NEVI Program, and at times flexes funds to FTA</li> </ul>

	<ul style="list-style-type: none"> <li>Administers the Consolidated Planning Grant, which includes FTA \$5303 funds flexed to FHWA for MPO transit planning projects</li> </ul>
Division of Internal Audit	<ul style="list-style-type: none"> <li>Assists DMTR in identifying risks and developing appropriate controls</li> <li>Performs reviews &amp; procedures to test the efficacy of controls implemented by DMTR</li> </ul>
Division of Human Resources	<ul style="list-style-type: none"> <li>Assists in developing DMTR's staffing plan as well as recruiting and onboarding new staff</li> <li>Assists with development of individual performance plans and performance management</li> </ul>
Legislative Liaison's Office	<ul style="list-style-type: none"> <li>Communicates with members of the Tennessee General Assembly regarding transit issues</li> <li>Communicates with local elected officials about transit issues</li> </ul>
Division of Strategic Planning	<ul style="list-style-type: none"> <li>Assists in developing statewide goals for growth in transit ridership</li> <li>Reports on TDOT's performance measures annually</li> </ul>
Division of Program Development	<ul style="list-style-type: none"> <li>Develops the Statewide Transportation Improvement Program (STIP) with input from DMTR regarding transit programs</li> <li>Develops the Three Year Plan submitted to the General Assembly each year</li> <li>Flexes funds from Federal Highway Administration (FHWA) to FTA, (CMAQ, Surface Transportation Program (STP), Ferry Boat Discretionary, etc.)</li> </ul>
Division of Information Technology	<ul style="list-style-type: none"> <li>Assists in the procurement and/or development of software</li> <li>Complies with FTA requirements for data backup and storage</li> </ul>
Division of Freight & Logistics	<ul style="list-style-type: none"> <li>Serves as the State Safety Oversight official</li> <li>Administers the State Safety Oversight program</li> </ul>

### 3.2.2 Other Statewide Entities

Tennessee Department of Finance and Administration	<ul style="list-style-type: none"> <li>Maintains "Edison," Tennessee's centralized accounting system</li> <li>Reviews and approves all contracts</li> <li>Reviews and approves invoice payments to subrecipients</li> <li>Reviews and approves purchase orders for vehicles</li> </ul>
Tennessee Department of General Services	<ul style="list-style-type: none"> <li>Maintains a state contract for vehicle procurement that is available to public transit agencies in Tennessee</li> <li>Maintains a statewide contract for professional services which TDOT can access as needed</li> <li>Maintains all statewide contracts</li> </ul>
Tennessee Secretary of State,	<ul style="list-style-type: none"> <li>Approves Public Records Disposition Authorizations</li> </ul>

Records Management Division	
Tennessee Public Transportation Association	<ul style="list-style-type: none"> <li>• Provides input to TDOT regarding potential policy or procedural changes</li> <li>• Collaborates with TDOT to develop statewide competitive grant applications for funding</li> <li>• Communicates funding needs to TDOT</li> </ul>
Comptroller of Tennessee	<ul style="list-style-type: none"> <li>• Prepares TDOT's annual 2 CFR 200 Subpart F audit</li> <li>• Reviews contracts prior to execution</li> <li>• Conducts other audits (Sunset Audit, COVID Relief Funding Audit, etc)</li> </ul>
Tennessee Department of Human Services	<ul style="list-style-type: none"> <li>• Serves as the cognizant state agency for one or more agencies that provide rural transportation services</li> </ul>
Tennessee Commission on Aging and Disability	<ul style="list-style-type: none"> <li>• Serves as the state cognizant agency for one or more agencies that provide rural transportation services</li> </ul>
Tennessee Department of Corrections	<ul style="list-style-type: none"> <li>• Serves as the state cognizant agency for one or more agencies that provide rural transportation services</li> </ul>

### 3.3 Grant Subrecipients

Potential recipients or subrecipients of FTA funds are shown below.

Category of Agency	Transit Agency Name
Regional Rural Transit Agencies	<ul style="list-style-type: none"> <li>• Delta Human Resource Agency</li> <li>• East Tennessee Human Resource Agency</li> <li>• First Tennessee Human Resource Agency</li> <li>• Mid-Cumberland Human Resource Agency</li> <li>• Northwest Tennessee Human Resource Agency</li> <li>• Southeast Tennessee Human Resource Agency</li> <li>• South Central Tennessee Development District</li> <li>• Southwest Human Resource Agency</li> <li>• Upper Cumberland Human Resource Agency</li> </ul>
Local Transit Agencies Serving Tourist-Intensive Rural Communities	<ul style="list-style-type: none"> <li>• Gatlinburg Mass Transit System</li> <li>• Pigeon Forge Mass Transit</li> </ul>
Agencies in Small Urbanized Areas (Population of entire urbanized area (UZA) 50,000 to	<ul style="list-style-type: none"> <li>• Bristol Tennessee Transit System</li> <li>• Cleveland Urban Area Transit System</li> <li>• East Tennessee Human Resource Agency</li> </ul>

200,000)	<ul style="list-style-type: none"> <li>• First Tennessee Human Resource Agency</li> <li>• Jackson Transit Authority</li> <li>• Johnson City Transit System</li> <li>• Kingsport Area Transit System</li> <li>• Lakeway Area Transit</li> <li>• Murfreesboro Transit</li> <li>• City of Spring Hill (Small Urban as of 2020 Census)</li> </ul>
Agencies in Large Urbanized Areas (Population of entire UZA over 200,000)	<ul style="list-style-type: none"> <li>• Chattanooga Area Regional Transit System</li> <li>• Clarksville Transit System (Large Urban as of 2020 Census)</li> <li>• East Tennessee Human Resource Agency</li> <li>• Franklin Transit System</li> <li>• Knox County Community Action Committee</li> <li>• Knoxville Area Transit</li> <li>• Memphis Area Transit Authority</li> <li>• Nashville Metropolitan Transit Authority</li> <li>• Regional Transportation Authority of Middle Tennessee</li> </ul>
Metropolitan Planning Organizations (MPOs)	<ul style="list-style-type: none"> <li>• Bristol MPO</li> <li>• Chattanooga TPO</li> <li>• Clarksville MPO</li> <li>• Cleveland MPO</li> <li>• Jackson MPO</li> <li>• Johnson City MTPO</li> <li>• Kingsport MTPO</li> <li>• Knoxville TPO</li> <li>• Lakeway TPO</li> <li>• Memphis MPO</li> <li>• Greater Nashville Regional Council (GNRC)</li> </ul>

In addition to public transit agencies, there are numerous non-profit organizations and local governmental authorities that are subrecipients of 5310. These agencies provide services to the elderly and/or people with disabilities.

Subrecipients are responsible for operating and administering public transportation services in a manner that complies with all state and federal requirements, including, but not limited to, financial requirements, civil rights requirements, and programmatic requirements. Responsibilities include:

- Providing transportation services
- Complying with state and federal programmatic and grant management requirements
- Submitting invoices to TDOT for grant expenditures with supporting documentation as requested by DMTR



- Reporting to TDOT on operations and financial performance, including but not limited to ridership, funding, vehicle maintenance records, vehicle inspection records, and audit reports
- Conducting procurements per state and federal requirements
- Participating in periodic compliance reviews
- Complying with all contractual obligations in the grant agreement between TDOT and the subrecipient

The Governor has designated the Tennessee Department of Transportation as the state agency responsible for administering Federal Transit Administration programs.

## **3.4 Elected Officials and Community Leaders**

Elected officials play a critical role in the FTA programs administered by TDOT. At the state level, the Governor and members of the General Assembly authorize state funding for transit. At the local level, local financial support is required for essentially all grants, and this local support is provided by elected officials and other local leaders that serve as mayors and council members, MPO board members, and transit agency board members. TDOT reaches out to members of the General Assembly and local elected officials in the development of the Long Range Transportation Plan and in the customer survey that is conducted periodically.

## **3.5 State Resources for Administration of FTA Programs**

### **3.5.1 Staffing**

TDOT's Division of Multimodal Transportation Resources (DMTR) is the entity within TDOT primarily responsible for FTA programs. Salaries of TDOT transit staff are funded by Tennessee fuel tax revenues and FTA funds. The transit staff have three focus areas: grant administration, compliance oversight, and mobility and accessible transportation. The Division also has staff assisting in planning and financial operations.

### **3.5.2 State Funding**

The State of Tennessee may fund a portion of the required local match for FTA-funded projects. Tennessee has typically provided half of the non-federal share for 5310, 5311, 5317, and 5339 grants. However, state funding for transit programs is contingent on the General Assembly's approval of TDOT's budget each year.

## **3.6 Certifications and Assurances**

TDOT annually executes Certifications and Assurances via FTA's award management system. The Commissioner of TDOT provided written authorization to TDOT's General Counsel and TDOT's Multimodal Director to PIN the Annual Certifications and Assurances.

Subrecipients of 5311, 5317, and 5339 funds are required to provide TDOT with a signed copy of FTA's "Certifications and Assurances" for the specific funding programs for which its organization is applying as part of the application process. The "Certifications and Assurances" are based on federal and state requirements, and may not be altered in any way. In addition and where noted, the "Certifications and Assurances" must be signed and dated by the local attorney and the agency's authorized official.

## **3.7 Planning and Coordination**

### **3.7.1 Statewide Transportation Improvement Program (STIP)**

TDOT's Division of Program Development develops the Statewide Transportation Improvement Program (STIP). The STIP is the state's multimodal transportation investment and capital improvement program. It is the outcome of the state's planning process, and it serves as a budgeting and scheduling tool. It incorporates the Transportation Improvement Programs (TIPs) from the eleven Metropolitan Planning Organizations. The STIP is updated every four years in accordance with federal requirements, but can be amended at any time in accordance with TDOT/FHWA/FTA Statewide Transportation Improvement Program protocols and procedures.

Through the Statewide Transportation Improvement Program, TDOT allocates resources to those projects assigned the highest priority through these planning and programming processes. Transit-related projects in the Statewide Transportation Improvement Program reflect current and projected projects based on actual and estimated funds from the FTA. The STIP includes all FTA funds for which TDOT is a Direct Recipient.

### **3.7.2 Urban Transportation Improvement Programs (TIPs)**

The Transportation Improvement Program is a planning document that describes how federal transportation funds will be used in Metropolitan Planning Organization (MPO) areas. The Transportation Improvement Program covers a period of four years and lists, in detail, all transportation projects that will receive federal transportation funds within

that timeframe. TIPs are incorporated into the STIP by reference.

### **3.7.3 Coordination in the Provision of Human Services**

#### **Transportation**

TDOT encourages the efficient use of all federal funds through the coordination of programs and services. Human Services Transportation Coordination aims to improve transportation services for persons with disabilities, older adults, and individuals with lower incomes by ensuring that communities coordinate transportation resources in order to enhance transportation access, minimize duplication of services, and realize operational efficiencies. Additionally, when public transportation providers deliver services funded by other state and federal agencies, U.S. DOT allows transit agencies to use the revenue generated from those activities as local matching funds for future federal public transportation grants.

##### **3.7.3.1 Statewide Coordination Efforts**

The Office of Mobility & Accessible Transportation (OMAT), established in 2020, provides resources and expertise for expanding and improving accessible transportation and mobility across the state, including a five-year strategic plan and a Transportation Working Group, which meets on a quarterly basis. OMAT oversees updates to Coordinated Human Services Plans across the state and offers guidance on starting, maintaining, or expanding Mobility Management programs. The office's priorities include:

- Shrinking gaps in access to appropriate transportation
- Establishing a pathway to integrated policies and cooperative actions
- Strengthening transportation independence for Tennesseans

Other opportunities for statewide coordination efforts include the development of the Statewide Transportation Improvement Program (STIP) which identifies and incorporates all transit projects in the state as well as TDOT's Long Range Transportation Plan which leverages participation from planning organizations, stakeholders, and local elected officials to set long-range policy goals and objectives for multimodal activities and public transit accessibility.

Long term transportation program goals for elderly persons and persons with disabilities are discussed and established through a coordinated effort between the Rural Planning Organization (RPO) and Human Resource Agency (HRA) operating in the area. The two groups implement a public planning process to consult with and provide direct

participation opportunities for rural residents, stakeholders, and transportation providers to be involved in the development of short and long range transportation and local human services coordination plans.

### 3.7.3.2 **Local Coordination Plans**

SAFETEA-LU, MAP-21, FAST Act, and the BIL require locally developed, coordinated public transit- human services transportation plans for certain Federal Transit Administration (FTA) programs for underserved populations:

- SAFETEA-LU Elderly Individuals and Individuals with Disabilities (5310)
- SAFETEA-LU New Freedom (5317)
- MAP-21 Enhanced Mobility of Seniors and Individuals with Disabilities Program (5310)
- FAST Act Enhanced Mobility of Seniors and Individuals with Disabilities Program (5310)
- BIL Enhanced Mobility of Seniors and Individuals with Disabilities Program (5310)

TDOT supports the development of coordinated plans at the state and local level. TDOT encourages the direct involvement of local decision-makers, providers, service users, and advocates in the development of human services transportation coordination policies, strategies, and identification of projects affecting their communities. The involvement of stakeholders in the planning process facilitates direct involvement in the long-term coordination of transportation services in their region.

At a minimum, a locally developed coordinated human services transportation plan has been developed for each of the nine regions in which regional rural public transportation is provided. These plans will be inclusive of large or small urban areas within those regions. In addition to the coordination plans for each of the nine rural transit regions, urbanized areas may also have more locally-focused coordinated human services transportation plans. In some cases planning areas may overlap. The agency with the lead responsibility for coordinated planning will vary based on local circumstances, and may be an MPO, a regional rural transit agency, or an urban transit agency.

Projects selected for funding under 5310 and 5317 must be derived from a local coordination plan. Requiring that projects are “derived from” or “included in” the local coordination plan does not mean that projects have to be explicitly identified in the plan, but rather that projects address needs identified in the local plan and harmonize with

the plans for service envisioned by the local coordination plan.

## **3.8 Technical Assistance to TDOT**

TDOT utilizes the assistance of on-call consultants on an ongoing basis through two types of consultant contracts.

### **3.8.1 Planning Assistance from Consultants**

TDOT receives consultant technical assistance through master contracts for planning, program management, financial management, State Safety Oversight, and other technical matters as needed to support the State in its oversight of FTA funded multimodal grant programs that provide assistance for public transit systems and initiatives. The on-call contracts for planning services are:

- State Safety Oversight: awarded Oct. 2023, expires Oct. 2028 (2 consultants)
- Transit Planning: awarded Nov. 2023, expires Nov. 2028 (5 consultants)

### **3.8.2 Engineering Assistance from Consultants**

TDOT receives assistance from consultants through an on-call contract for engineering services for the development and oversight of Multimodal projects statewide including the update and/or development of TDOT Multimodal manuals, scoping and design guidance documents and standard drawings, grant programs, and other multimodal programs and initiatives statewide. The on-call contract for engineering services features 3 consultants, was awarded in December 2021 and expires in December 2025.

## **3.9 Technical Assistance to Subrecipients**

### **3.9.1 Assistance from TDOT Staff**

TDOT provides technical assistance to subrecipients on an ongoing basis through several avenues. TDOT staff is available to assist transit agencies with issues via phone, email, virtual, or face to face meetings. TDOT staff participates in Tennessee Public Transportation Association (TPTA) monthly meetings and the TPTA annual conference.

### **3.9.2 Assistance from Consultants**

When technical assistance needed is beyond the capacity or expertise of TDOT staff, TDOT uses consultants for specialized assistance. An agency requesting technical

assistance typically writes the Director asking for assistance. If funds are available and the requested assistance is warranted, TDOT issues a task order for the needed technical assistance using an on-call contract established for this purpose. TDOT is able to specify the type of funds that will support each task order. The program manager in charge of the on-call contract moves the request forward and determines the most appropriate source of funds for the task order. Examples of such assistance include, but are not limited to:

- Development of technical specifications for procurements
- Development of requests for proposals
- Conducting comprehensive analysis and planning studies for transit agencies
- Development of compliant transit agency policies and procedures

### **3.9.3 Rural Transportation Assistance Program**

The Rural Transportation Assistance Program (RTAP) funds received by Tennessee are primarily granted to a consulting firm on TDOT's on-call consultant contract. This is done through a competitive selection process. The consulting firm provides technical assistance to all 5311 agencies across the state. A limited amount of RTAP funds are granted to each 5311 subrecipient to supplement their training budgets. The contractor meets with and receives input from the transit providers and TDOT when deciding which training projects to provide. The state does not require a local match for RTAP projects.

TDOT reviews all subrecipient RTAP expenses during the reimbursement request process and RTAP activities are covered during the periodic compliance reviews. TDOT conducts oversight of on-call consultant RTAP expenses through progress reporting and invoice review.

## **3.10 Rural Intercity Bus Service**

At least every three (3) years, TDOT conducts an assessment to determine if the intercity bus needs are being met adequately. This Intercity Bus Service Assessment seeks to accomplish the following tasks:

- Consult with intercity bus providers regarding intercity services
- Explore the demand for intercity bus service. Assess public awareness and usefulness of existing services. Recommend procedures for increasing awareness of existing services
- Identify service needs, gaps, or duplication of services and any opportunities for cooperation between agencies or improvements in administering this program.

Include projected needs and any anticipated future gaps in service. Identify potential routes and the feasibility of developing those routes

- Evaluate the need for additional intercity service relative to other transportation needs in Tennessee
- All of the above bullets are completed with the assistance of consultants who manage consultation meetings and survey to engage with providers

If the Governor certifies that “the intercity bus service needs of the State are being met adequately,” then all 5311 funds will be available for general 5311 service. In this case, 5311 subrecipients are encouraged to make the general public aware that they can provide trips to intercity bus terminals. If the Governor determines that intercity bus needs are not adequately met, then the amount needed to adequately meet intercity bus needs or the maximum of fifteen percent (15%) of the allocation would be dedicated to intercity bus projects and the balance of the 5311 funds are distributed to Tennessee’s 5311 subrecipients.

### **3.11 Transfer of Funds between Programs**

TDOT typically allocates and obligates all funds in the same program in which those funds were appropriated.

TDOT may transfer Surface Transportation Program (STP) funds, Congestion Mitigation and Air Quality (CMAQ) funds, and certain other flexible funds, from the Federal Highway Administration (FHWA) to FTA to use for eligible transit purposes identified in each program and may transfer FTA planning funds to long range planning to be merged with FHWA funding.

Before a decision to transfer program funds is implemented, TDOT will consult with current subrecipients in both receiving and donating programs as well as with the area MPO, appropriate local officials and area transit providers. Any transfer of funds will follow the specific regulations and procedures identified in Circular 9040.1G. In addition, TDOT will notify the FTA regional administrator of its intent to have funds transferred.

### **3.12 Third Party Service Providers**

Subrecipients may purchase transportation service from private sector transportation providers as well as public providers. Provision of service must be procured in accordance with the procurement policies identified in this State Management Plan. Additional information about required provisions in service contracts is provided in the

procurement section of this plan.

### 3.13 Program Measures

TDOT maintains performance measures for each transit program to track productivity and cost effectiveness. TDOT requires subrecipients of program funds to submit information regarding each program’s performance measures in required quarterly reports and/or in conjunction with the subrecipient’s invoice reimbursement request, or through the annual process of compiling data for the National Transit Database (NTD) or Transit Asset Management (TAM) Plan. The submitted information is analyzed to also review program performance for Section 5310, 5311, and 5339 programs. This information is collected and recorded by TDOT staff and reported accordingly to the FTA.

<b>Program</b>	<b>Measures</b>	<b>Reporting</b>
5310	<ul style="list-style-type: none"> <li>• One-way trips provided</li> <li>• Number of eligible individuals</li> </ul>	<ul style="list-style-type: none"> <li>• Quarterly Reports</li> </ul>
5311	<ul style="list-style-type: none"> <li>• General public trips provided</li> <li>• Sponsored trips provided</li> <li>• Revenue miles</li> <li>• Operating cost per trip</li> <li>• Average annual revenue vehicle mileage</li> </ul>	<ul style="list-style-type: none"> <li>• NTD</li> <li>• TAM</li> </ul>
5317	<ul style="list-style-type: none"> <li>• Actual or estimated number of trips resulting from service enhancements</li> <li>• Actual or estimated number of trips resulting from capital improvements</li> </ul>	<ul style="list-style-type: none"> <li>• Invoices</li> </ul>
5339	<ul style="list-style-type: none"> <li>• Average annual revenue vehicle mileage</li> <li>• Useful life of agency’s fleet</li> </ul>	<ul style="list-style-type: none"> <li>• Annual Inventory</li> <li>• NTD</li> <li>• TAM</li> </ul>



## Chapter 4. Eligibility

### 4.1 Eligible Subrecipients

5310	<ul style="list-style-type: none"> <li>• Subrecipients of 5310 funds for which TDOT is the Direct Recipient must primarily serve either rural (population under 50,000) or small urbanized areas (population between 50,000 and 200,000). Large urbanized areas with a population over 200,000 each receive an apportionment of 5310 funds from FTA. The five large urbanized areas in Tennessee have each selected a local Direct Recipient for those funds. TDOT recognizes that the service areas of potential subrecipients often include both urban and rural areas, and will work with potential subrecipients and the designated recipients in large urbanized areas to identify appropriate funding</li> <li>• <u>Private nonprofit organizations.</u> A nonprofit organization is a corporation or association determined by the Secretary of the Treasury to be an organization described by 26 USC §501(c) which is exempt from taxation under 26 USC §501(a) or one which has been determined under state law to be nonprofit and for which the designated state agency has received documentation certifying the status of the nonprofit organization. Nonprofit applicants must be recognized under Section 501(c)(3) of the Internal Revenue Code and submit a copy of the certificate from the Internal Revenue Service</li> <li>• <u>Public bodies that certify to the Governor</u> that no nonprofit corporations or associations are readily available in an area to provide the service.</li> <li>• <u>Public bodies designated by the state to coordinate services.</u> Local public bodies are eligible to apply for 5310 funds if they are designated by the state as coordinators of services for elderly persons and persons with disabilities in a particular area. On October 31, 2011, Tennessee's Governor certified that public transportation agencies are authorized to coordinate human services transportation in their areas</li> </ul>
5311	<ul style="list-style-type: none"> <li>• TDOT provides 5311 funding to nine (9) regional public transportation agencies and two (2) tourist-intensive rural transit operators. The regional providers include eight (8) regional human resource agencies (HRAs) and one (1) regional development district</li> <li>• TDOT will not accept 5311 applications from agencies that are not current subrecipients unless the legislative body of a local government submits a formal request to the Commissioner. In the event that such a request is received, Multimodal staff will evaluate the proposal and provide the Commissioner with a recommended course of action. The final decision about whether to add a new subrecipient is at the discretion of the Commissioner</li> <li>• Private for-profit operators of transit services may participate in the program as third party contractors for grantees or eligible subrecipients, rather than as subrecipients</li> <li>• If TDOT participates in the 5311(f) program for rural intercity bus service, then private for-profit operators of transit services may participate in the program</li> </ul>
5317	<ul style="list-style-type: none"> <li>• Recipients of 5317 funding through TDOT must serve rural (population under 50,000) or small urban areas (population 50,000–200,000). Eligible applicants for</li> </ul>

	<p>5317 funding are:</p> <ul style="list-style-type: none"> <li>○ Private non-profit organizations</li> <li>○ State or local governmental authorities</li> </ul>
5339	<ul style="list-style-type: none"> <li>• Public transportation agencies in rural (population under 50,000), small urban areas (population between 50,000 and 200,000), and large urban areas (population over 200,000) providing general public transportation that currently receive Section 5307 or 5311 program funds are eligible.</li> <li>• TDOT is the Designated Recipient for 5339 funds in small urban areas (population between 50,000 and 200,000). Direct Recipients in small UZAs are eligible for a federal allocation and state matching funds. Small Urban Direct Recipients may not pass through any funds to subrecipients.</li> <li>• TDOT is both the Designated Recipient and Direct Recipient of 5339 funds for the statewide FTA allocation.</li> </ul>

## 4.2 Eligible Services

The type of services that can be supported by FTA funding (whether operating or capital support) varies by program. TDOT encourages coordination of resources to maximize the efficiency of providing public transportation and human services transportation funded by other government agencies. The table below identifies the basic type of service provided by each program. Each program’s requirements are discussed further in the sections below.

Program	Service Objectives
5310	<ul style="list-style-type: none"> <li>• Services that increase mobility for the elderly and people with disabilities</li> <li>• 5317 type services have been combined with this program</li> </ul>
5311	<ul style="list-style-type: none"> <li>• Public transportation for the general public in rural areas, including providing access from rural areas into urbanized areas</li> <li>• 5316 type services that increase access to jobs for low income persons have been combined with this program</li> </ul>
5317	<ul style="list-style-type: none"> <li>• New service that goes above and beyond the requirements of the Americans with Disabilities Act</li> <li>• 5317 type services have been combined with 5310</li> </ul>
5339	<ul style="list-style-type: none"> <li>• Capital investments to support the continuation and expansion of public transportation services</li> </ul>

### 4.2.1 Eligible 5310 Service

Transportation service supported by 5310 must remove barriers to transportation services or expand transportation opportunities for the elderly and/or people with disabilities. This expanded service may be part of general public transportation or be part of programs devoted to these populations.

## 4.2.2 Eligible 5311 Service

General requirements for 5311 service include the following:

- Public transportation services that are provided with funding support from the program must be open to the general public on a regular and continuing basis
- Services must be advertised to let the public know the service is available
- An eligible transportation service must include transportation which originates or terminates within the non-urbanized area (see discussion of service area to follow)
- The service is designed for the general public but may be part of a coordinated project designed to maximize the usage of services by disadvantaged persons
- Intercity bus service that is regularly scheduled bus service for the general public that operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, that has the capacity for transporting baggage carried by passengers, and that makes meaningful connections with intercity bus service to more distant points, if such service is available. See 3.10 Rural Intercity Bus Service
- Job Access Reverse Commute (5316) type services were added, see 4.2.2.1 Eligible 5316 Service

### 4.2.2.1 Eligible 5316 Service

The 5316 JARC program was repealed by the U.S. Congress under MAP-21 and TDOT has expended all residual program funds. Transit agencies are permitted to use 5311 funding to maintain JARC service projects.

For demand-response service providers, 5316 Job Access Reverse Commute (JARC) service may take the form of a targeted transportation program in which individuals participate based on qualifications and receive clearly defined transportation benefits for a period of time. In contrast, fixed-route service providers, JARC projects may take the form of a general expansion of transit service to enhance access to employment without enrolling individuals in a job access program. When an agency operates a targeted program, the following requirements apply:

- Participants must provide income documentation certifying that income does not exceed the Health and Human Services Poverty Guidelines, or provide a referral from a county office of the Tennessee Department of Human Services.
- Participants must be employed (part-time or full-time) or participating in a work related activity such as job training.
- Participants must meet with a Mobility Manager or Case Manager to recertify as to income and employment status. The Mobility Manager will assist the participants in identifying transportation alternatives and in establishing long-

term transportation arrangements to employment.

- Participant may participate in the Job Access Program for a specified period of time determined by the subrecipient.

### **4.2.3 Eligible 5317 Service**

5317-funded service enhancements must support new transportation services beyond the ADA. As defined by the FTA Circular 9045.1, “new” service includes services meeting the following criteria:

- Any service or activity that was not operational on August 10, 2005
- Did not have an identified funding source as of August 10, 2005

An expansion of general public transportation is an eligible 5317 service, provided it meets the definition of “new.” Other examples of 5317 service that exceeds the requirements of ADA include but are not limited to, mobility management, providing paratransit service beyond the required distance from a fixed route, providing door-to-door demand response or paratransit service or extending paratransit service into the evening beyond the time required by ADA and any other projects that may be identified in the FTA Circular 9045.1.

This program was repealed by the U.S. Congress, and there are no new awards under this program. TDOT will continue to administer this program until all residual funds are expended.

### **4.2.4 Eligible 5339 Service**

Section 5339 is a capital only program. As such, service may take the form of projects to replace, rehabilitate, and purchase buses and related equipment, transit-related technology, and projects to construct bus-related facilities. Projects to construct bus-related facilities can include costs associated with environmental compliance, engineering and design activities, and the preparation of environmental documents.

## **4.3 Eligible Budget Items**

The type of eligible budget items that can be supported by FTA funding varies by program, which are detailed below. However, TDOT’s delivery of each program may be more restrictive than this list and is detailed in further chapters and Program Fact Sheets posted to TDOT’s website.

	5310 (Traditional)	5310 (Expanded, formerly New Freedom)	5311	5317	5339
State Program Administration	X	X	X	X	
Project Administration		X	X	X	
Capital	X	X	X	X	X
Planning		X	X	X	
Operations		X	X	X	

### 4.3.1 State Program Administration

The amount that the state may use for state administration, planning, and technical assistance activities is limited to fifteen percent (15%) of the annual apportionment under SAFETEA-LU and ten percent (10%) under MAP-21, FAST Act, and BIL. These are one hundred percent (100%) federal funds and may be used to support TDOT personnel, administrative costs, and costs associated with technical assistance with subrecipients monitoring. State program administration funds may also be used to provide technical assistance to subrecipients. TDOT has used State Program Administration funds for staff training, technical assistance, planning, and participation in conferences in past years. TDOT also uses FTA funds to support staff salaries. Under the 5310 and 5311 programs, TDOT may use state administrative funds to support compliance monitoring, development of coordinated plans, technical assistance, or other activities that support the programs.

### 4.3.2 Subrecipients' Project Administration Expenses

State program administration funds are not available to subrecipients. Subrecipients are allowed to use their programmatic funding allocation for program administration expenses. Subrecipients may treat administrative expenses as "non-operating" expenses, separate from either capital or regular operating expenses. Eligible project administrative costs may include, but are not limited to, general administrative expenses (e.g., salaries of the project director, secretary, and accounting staff); marketing expenses, insurance premiums or payments to a self-insurance reserve, office supplies, facilities and equipment rental, the costs of administering drug and alcohol testing, and agency indirect costs that conform to an approved indirect cost allocation plan.

### **4.3.3 Planning**

Eligible expenses are comprehensive planning for provision of transit services, engineering, design, and evaluation of public transportation projects, and planning studies involving modes other than transit when performed as part of the rural transportation planning process. Eligible activities include, but are not limited to, the development of long-range rural transportation plans, joint development planning, training and educational activities, and human resource program activities. The planning activities undertaken with 5311 funds are specifically for rural needs.

### **4.3.4 Capital**

Eligible capital expenses include the acquisition, construction, and improvement of public transit facilities, vehicles and equipment needed for a safe, efficient, and coordinated public transportation system, as well as certain other expenses classified as capital in 49 U.S.C. § Section 5302(4).

Tennessee's Department of General Services maintains a contract for the purchase of several types of capital equipment including ADA conversion vans and buses, radio equipment, computers, etc. The contracts are available for subrecipients to utilize at their discretion.

### **4.3.5 Operations**

Operating expenses are those costs directly related to system operations, including, at a minimum, fuel, oil, drivers' salaries and fringe benefits, dispatcher salaries and fringe benefits, and licenses. TDOT permits subrecipients to treat preventive maintenance as either an operating or capital expense for funding purposes. Similarly, for the 5311 program only, FTA gives states the option of classifying certain other expenses as either operating or non-operating expenses (i.e., project administration). Once these expenses are eligible for funding under 5311 as a capital match, the provider may classify these funds as operating expenses in its internal accounting system, under generally accepted accounting principles.

SAFETEA-LU 5310 funds cannot be used for operating expenses; however, TDOT may choose up to 45% of MAP-21, FAST Act, and BIL 5310 funds available to public transportation agencies for New Freedom-type operating projects. The amount of funds used for traditional New Freedom projects is based on projects submitted and Director's discretion.

Since contract service is an integral part of coordination between transit agencies and human service agencies, revenue vehicles used for general public transportation can also be used for contract services.

## **4.4 Eligible Service Area**

### **4.4.1 Eligible Service Area for 5310 Projects**

The service area for 5310 projects is specified in the application submitted by the subrecipient. Subrecipients may request a change to the service area assigned to their project, provided the project remains eligible for 5310 service.

### **4.4.2 Eligible Service Area for 5311 Projects**

Funds available from the 5311 program are dedicated to public transportation projects that serve nonurbanized areas of the state based on the urbanized/rural designations in the Decennial Census. Since the goal of 5311 is to enhance the overall mobility of people living in non-urbanized areas, 5311 projects may include transportation to and from urbanized areas. 5311 subrecipients may provide public transportation service into and out of urbanized areas provided that each trip originates from or terminates in a rural area. However, subrecipients are prohibited from providing 5311 funded public trips that originate and terminate within an urbanized area. Whenever possible, subrecipients will coordinate service with one another when serving destinations in proximity to one another.

#### **4.4.2.1 5311 Appalachian Funds**

5311 Appalachian funds are intended for providing public transportation service to the counties identified as part of the Appalachian region, as designated by the Appalachian Regional Commission.

#### **4.4.2.2 5311 Services Crossing State Lines**

The service area may include destinations across the state line. Rural operators of interstate feeder service are required to comply with the Federal Motor Carrier Safety Administration (FMCSA) regulations. FMCSA requirements will apply when a subrecipient operates commercial motor vehicles across state lines for compensation (directly or indirectly). These requirements include obtaining a DOT number and meeting minimum financial responsibility requirements when the subrecipient has a vehicle that:

- Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
- Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
- Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation;

#### **4.4.3 Eligible Service Area for 5317 Projects**

Rural 5317 funds are intended to serve rural areas, and Small Urban 5317 funds are intended to serve needs within the small urban areas.

#### **4.4.4 Eligible Service Area for 5339 Projects**

Service areas for directly-allocated 5339 funds to small urban agencies are based on the agencies' transit operations. Agencies operating public transit service in the small urbanized areas are eligible to receive 5339 small urban funds. The 5339 statewide funds are eligible for large urban, small urban, and rural service areas. TDOT distributes funding from the 5339 statewide apportionment in different methods dependent on the Director's evaluation of transit providers' needs.

- TDOT utilizes the Transit Asset Management Plan vehicle condition scores to allocate funding for rural vehicle replacements
- TDOT utilizes a competitive application process to award funding. The service area is identified as part of the competitive application
- TDOT identifies a specific project with statewide benefit



## Chapter 5. Application for Funding

The announcement of apportionments in the Federal Register begins the grant cycle for TDOT and our subrecipients. Application requirements include some provisions which apply to all grant programs as well as program-specific grant application procedures. Requirements applying to multiple programs may be met through the pre-certification process.

### 5.1 Overarching Documentation Requirements for Subrecipients

Certifications and Assurances	Required for 5311, 5317, and 5339 funds
Identification of Source of Local Matching Funds	Required for all programs
Single Audit & Single Audit Data Collection Form (SF-SAC)	Required for all programs that meet the \$750,000 threshold for single audit standards
Correcting Actions for Single Audit Findings Related to Transit	Required for all programs that meet the \$750,000 threshold for single audit standards
Documentation of Corrective Actions from All Audits & Reviews	Required for all programs
Data for Federal Funding Accounting and Transparency Act of 2006 (FFATA)	Required for all programs
Identification of Labor Organizations	Required for 5311 and 5339 funds
Designation of Authorized Signatory for Invoices	Required for all programs
Lawsuits and Formal Complaints in the Prior Year	Required for all programs
Results of Civil Rights Compliance Assessments completed for the prior three years (e.g., Title VI, EEO, DBE reviews performed, if any)	Required for all programs
Title VI Plan	Required for all programs
DBE Goal & Methodology	Required for all programs that meet the \$250,000 threshold of federal funds. All current subrecipients that report under TDOT's Uniform Report are covered under TDOT's DBE Goal & Methodology.
Equal Employment Opportunity Program	Required for all programs if: - capital/operating assistance is over \$1M or planning assistance is over \$250,000 AND subrecipient employs 50-99 transit employees (Abbreviated Program) - capital/operating assistance is over \$1M or planning assistance is over \$250,000 AND subrecipient employs 100+ transit employees (Full Program)
Limited English Proficiency Plan	Required for all programs
Trip Denial Log	Required for 5311, 5317 programs on an annual basis

Certification Regarding Contract Service and Vehicle Availability	Required for 5311 and 5317 funds
Certification of Equivalent Service	Required for all programs if subrecipient plans to procure non-accessible vehicles with FTA funds
SAMS Search Report	Required for all programs
Inventory of Vehicles	Required for all programs if a subrecipient has or plans to procure FTA-funded vehicles
Maintenance Plan for Vehicles	Required for all programs if a subrecipient possesses or plans to procure FTA-funded vehicles and a current plan is not on file
Inventory of FTA Funded Equipment	Required for all programs if a subrecipient has or plans to procure FTA-funded equipment
Maintenance Plan for Equipment	Required for all programs if a subrecipient possesses or plans to procure FTA-funded equipment and a current plan is not on file
Inventory of FTA Funded Real Property	Required for all programs if subrecipient has or plans to procure FTA-funded real property
Maintenance Plan for FTA Funded Real Property	Required for all programs if subrecipient possesses or plans to procure FTA-funded real property and a current plan is not on file
Programmatic Cost Allocation Plan	Required for 5311, 5317 programs if subrecipient operates transit programs in both rural and urban areas
Indirect Cost Allocation Plan, Letter of Approval from Cognizant Agency, and Current Rate Calculation	Required for all programs if subrecipient seeks reimbursement for indirect costs
OMB Standard Form LLL (SF-LLL)	Required for all programs if non-federal funds are used for lobbying

The timetable for soliciting applications varies by program. The 5310 program will solicit applications in the spring each year. The 5339 program will conduct a competitive process for the statewide apportionment each fall. For 5311, TDOT aims to solicit applications from subrecipients within thirty (30) days of the publication of the state apportionment in the Federal Register. TDOT does not intend to solicit applications for 5317 again; the remaining funds will be awarded based on director's discretion. 5310 and 5339 solicitations may be delayed based on fleet needs across the state.

TDOT meets the FTA requirement to maintain and update a Program of Projects (POP) by attaching a POP to each individual grant in TrAMS. TDOT requires subrecipients to adhere to the grant contract and does not allow variance unless a change to the POP is approved by FTA first. Upon approval of the revision or amendment in TrAMS, TDOT then amends the subrecipient grant contract to accommodate the change. TDOT does not submit an annual report on all of its POPs because each grant is updated individually as

changes are needed and the Milestone Progress Reports cover progress on each grant’s activity in relation to the POP.

The timetable is further complicated when Congress makes funds available more frequently than once per year through short-term continuing resolutions. When continuing resolutions increase the funding within a single fiscal year, TDOT does not repeat the entire application process for subrecipients, but rather amends in the funds to the FTA grants and subrecipients’ contracts.

## 5.2 Program-Specific Application Requirements for Subrecipients

	5310	5311	5317	5339
Drug and Alcohol Oversight Program	Not Applicable per FTA; however, FMCSA rules may apply	Required	Not Applicable	Not Applicable
Locally Developed Human Services Coordinated Transportation Plan	Required	Not Applicable	Required	Not Applicable
Documentation of Public Participation	Not Applicable	Required	Required	Required
Documentation of Non-Profit Status	Required	Not Applicable	Not Applicable	Not Applicable

Please note that the table above describes TDOT’s requirements for applications based on state and FTA regulations. While TDOT does not require a 5310 applicant to submit a drug and alcohol program, an applicant must comply with the FMCSA rules if applicable (49 CFR part 382).

### 5.2.1 Application for Ongoing 5311 Funding

#### 5.2.1.1 Allocation of Funds to Subrecipients

Allocation templates for each transportation program are used to determine the amounts for eligible recipients. The previous year’s calculation is saved as a template for the following year and updated each year with the program’s current year information. Templates are saved on the network folders and are archived by IT network policy.

Each year TDOT uses a formula to determine the amount of funding that is available to each subrecipient based upon the total amount of 5311 funding provided to Tennessee. Historically, this formula has included:

- Rural population
- General Public Ridership
- General Public Revenue Miles

#### **5.2.1.2 5311 Grant Application Process**

5311 subrecipients must apply to TDOT annually for funding. TDOT distributes the application packet to eligible subrecipients in the spring of each year. Each subrecipient is provided with the total amount of funding that is available to them as well as an Excel template in which they are to enter their budget by Activity Line Item (ALI) code.

In addition to the overarching requirements discussed above, 5311 applicants submit extensive information about the following:

- Organization
- Program Description
- Service Provisions
- Service Coordination
- Financial and Managerial Capability
- Safety and Training Programs
- Labor/Employment

In the unlikely event that a subrecipient has been allocated funds but they are subsequently deemed ineligible based on their application, those funds will be reallocated to the remaining eligible applicants based on the formula.

### **5.2.2 Application for Competitive Grant Programs**

#### **5.2.2.1 5310 Application Process**

TDOT periodically issues a call for projects to eligible applicants of 5310 funds. The application procedure is a two-phased process. The purpose of the two-phased application process is to eliminate a significant portion of the time and expense involved in the application process for unsuccessful applicants. In Phase I, the voluntary “pre-certification” stage, potential applicants provide information that is used to determine whether the agency is eligible for 5310 funding as well as information that is used to complete the program application. In Phase II, the final Call for Projects, applicants are

asked to complete the final program application, which includes information used to determine eligibility and rate the proposal against the proposal of other agencies. Applicants for 5310 funds submit information about the following:

#### All Applicants

- Basis for eligibility for funding
- Non-profit status (if applicable)
- Designation to coordinate transportation services (if applicable)
- Certification of No Readily Available Service Providers (if applicable)
- Target population served by the agency
- Service area
- Identification of need for transportation
- Coordination efforts
- Schedule of operations
- Accessibility, safety and training
- Financial management and grant management capability
- Source of Local Match funds

#### Mobility Management Applicants

- Mobility Management project budget request
- Project performance measures
- Identification of mobility management services need

#### Rolling Stock Applicants

- Replacement or expansion vehicles
- Vehicle request  
Vehicle inventory including details for each vehicle type, age, capacity, and mileage

Incomplete applications will receive a lower score and may not be eligible for evaluation.

5310 funds are used to purchase vehicles to support the provision of transportation services to meet the special needs of elderly persons and individuals with disabilities. They are also used to support selected Mobility Management projects.

5310-only subrecipients select the vehicles they would like to receive from the state contract, and then these vehicles are ordered by TDOT and delivered. Typically, vendors deliver the vehicles to a TDOT Regional Office, where subrecipients meet a DMTR staff member to receive the vehicles. In this way TDOT can ensure that FTA procurement requirements are met.

Subrecipients in the 5310 program who also receive 5307 or 5311 funds identify the vehicles they would like to receive, and then elect to either order those vehicles off the state contract or follow TDOT's multi-step procurement process. These agencies are then reimbursed for the state and federal amount of the purchase.

For Mobility Management projects, subrecipients submit a detailed project budget at the time of application. TDOT may approve, amend or reject agency applications for funding. Awarded agencies are required to execute contracts from which they are then reimbursed for eligible expenses for the state and federal amount of the purchase.

In addition, all subrecipients that have identified 5310 awarded vehicles as a "replacement vehicle" have ninety (90) days from the time the vehicle is placed into service to initiate the disposal process for the vehicle identified in the application, or other TDOT-approved vehicle, to be replaced.

5310 funds may be used for either operating or capital purchases (as described above). At least 55 percent (55%) of available 5310 funds must be used for "traditional" 5310 projects (e.g., qualifying projects under 5310 under SAFETEA-LU). "Traditional" 5310 capital projects may be limited to approved Mobility Management activities and the purchase of ADA conversion vans and/or buses offered on the statewide vehicle contract. TDOT may elect to use a limited amount of 5310 funds for traditional New Freedom activities that provide for services beyond what is required from the Americans with Disabilities Act (ADA) of 1990. The amount of funds used for "traditional" New Freedom projects is based on projects submitted and the director's discretion.

#### **5.2.2.2 5317 Application Process**

TDOT had originally obligated and allocated all SAFETEA-LU 5317 funds based on the competitive application guidelines outlined in the State Management Plan approved in November 2011. TDOT has some residual 5317 funds left that will be awarded based on director's discretion.

#### **5.2.2.3 5339 Application Process**

TDOT Multimodal allocates the small UZA 5339 funds by formula based on population, population by population density, low income population, general public ridership, general public revenue miles, trips by trips per mile, and local investment in funding transit. Small urban agencies will apply for their allocation of funds directly to the FTA. Direct Recipients may not pass through any funds to subrecipients.

The 5339 statewide funds are eligible for large urban, small urban, and rural service areas. TDOT distributes funding from the 5339 statewide apportionment in different methods dependent on the Director's evaluation of transit providers' needs.

- Rural Competitive (TAM): TDOT utilizes the Transit Asset Management Plan vehicle condition scores to allocate funding for rural vehicle replacements
- Statewide Competitive: TDOT utilizes a competitive application process to award funding. The service area is identified as part of the competitive application
- Statewide Benefit: TDOT identifies a specific project with statewide benefit

Applicants for the statewide 5339 funds will submit the following information:

- Basis of eligibility for funding
- Identification of need for continuance of transportation services
- Vehicle inventory including details for each vehicle type, age, capacity, and mileage
- Vehicle replacement need
- Service data
- Financial management capability

The process for the 5339 Rural Competitive (TAM) statewide allocation is competitive and driven by vehicle condition scores using the Transit Asset Management Plan annual vehicle inventory. Vehicles in the TAM Plan are ranked by condition based on a combined TAM score. Vehicles with the lowest TAM scores have the highest priority for replacement.

Subrecipients that are awarded 5339 vehicles shall initiate the disposal process for the vehicle identified in the application, or other TDOT-approved vehicle, as needing replacement within ninety (90) days of the date that the new vehicle begins service.

The process for the 5339 Statewide Competitive allocation is competitive and allows selection of eligible projects from rural, small urban and large urban areas. The process for the 5339 Statewide Benefit allows TDOT to identify a project with statewide benefit and allocate funds based on need to the awarded agencies. Examples include supplementing partial awards of federal capital discretionary programs, as well as statewide deployment of new transit technology.

## **5.3 Evaluation of Applications**

TDOT's Division of Multimodal Transportation Resources reviews each application for

funding. Program-specific review procedures are described below. Evaluation of TAM inventories will be included as part of each process.

### **5.3.1 Program-Specific Application Evaluation Procedures**

#### **5.3.1.1 Evaluation of 5310 Applications**

The evaluation process includes two phases to review and recommend applicants for funding. In Phase I, applicants may “pre-certify” their agency to expedite the application process and receive additional technical assistance. This process is managed by DMTR staff. In Phase II, the full application is reviewed for basic eligibility and compliance requirements by DMTR staff, and then competitively evaluated by a panel that includes the Program Manager for 5310, other DMTR staff, and TDOT Civil Rights Division or DMTR Civil Rights Compliance staff. The panel will also address the applicants’ funding need by rating the fleet status and vehicle use of each applicant, if applicable, and number and type of persons served, schedule of operations, coordination efforts, safety and training, past practice and reporting history, and financial management and capacity. Additionally, DMTR Staff will review all applications to ensure that the proposed projects are included in a locally developed coordinated plan. After all applications have been rated, TDOT will notify all applicants of their status. Those applicants whom TDOT intends to recommend to FTA for funding will be asked to officially accept the award, terms, and local match requirements. Once Phase II is complete, a Program of Projects which consists of eligible subrecipients will be developed for inclusion in TDOT’s FTA grant application.

#### **5.3.1.2 Evaluation of 5311 Applications**

The review of 5311 applications is focused on confirming the following:

- Required documentation has been submitted
- Operations are compliant with pertinent regulations
- The proposed budget is reasonable

Once compliance has been confirmed, each subrecipient’s proposed budget is incorporated into TDOT’s grant application to FTA.

#### **5.3.1.3 Evaluation of 5317 Applications**

The 5317 program was repealed by the U.S. Congress and there are no new awards under this program. TDOT will continue to administer this program until all residual funds are expended. Awards are based on director’s discretion.



#### 5.3.1.4 Evaluation of 5339 Applications

Transit providers can apply for 5339 funding dependent on the Director's evaluation of statewide needs, resulting in one of three deployments of an apportionment:

- Rural Competitive (TAM): TDOT utilizes the Transit Asset Management Plan vehicle condition scores to allocate funding for rural vehicle replacements
- Statewide Competitive: TDOT utilizes a competitive application process to award funding. The service area is identified as part of the competitive application
- Statewide Benefit: TDOT identifies a specific project with statewide benefit

Rural Competitive 5339 award selections include TAM vehicle inventory scores, revenue fleet size, age, and other service performance data. Vehicles are ranked and selected for replacement. Rural agencies may request substitution of selected vehicles with other vehicles on their TAM inventory. Approval will occur only if TDOT is provided with a sufficient explanation for the substitution. The selection process will also take into consideration vehicles that were awarded recently under other programs and vehicles identified to be replaced. TDOT evaluates the TAM inventory scores ranking and additional agency information to select projects and award funding.

The 5339 Statewide Competitive allocation is competitive and allows selection of eligible projects from rural, small urban and large urban areas. Projects may be selected through the state-funded IMPROVE Act Transit Investment Grant funding opportunity application process, which includes evaluation of an asset for repair or replacement, as well as project readiness (inclusion of the project in a capital planning document) and other evaluation criteria.

The process for the 5339 Statewide Benefit allows TDOT to identify a project with statewide benefit and allocate funds based on need to transit agencies that are selected by the Director to participate.

### 5.4 Development of Annual Program of Projects for FTA Programs

Upon completion of the Application Evaluations for each program, TDOT uses the awarded budgets for each agency to develop the statewide Program of Projects included in each grant application to FTA, and submitted electronically to the federal transportation award management system. After FTA informs TDOT that the grant application has been approved, the grant is executed by the Multimodal Director, Assistant Director, Transit Manager, or Transportation Program Supervisor. The Program of Projects for each grant is updated on an annual or as-needed basis, corresponding

with TDOT's performance of Program of Projects Revisions, Budget Revisions, or Amendments to the FTA Grant.

## Chapter 6. **Contracts between TDOT & Subrecipients**

### **6.1 Contract Development**

Upon execution of a grant agreement between TDOT and FTA, TDOT Multimodal begins the contract development process. All projects included in TDOT's Program of Projects in FTA grants are governed by contractual agreements between TDOT and the subrecipient. These contracts follow the guidelines of the Department of General Services, Central Procurement Office (CPO). Prior to execution, contracts are reviewed by TDOT Division of Finance, TDOT General Counsel's Office, the TDOT Bureau Chief, TDOT Commissioner's Office, Department of General Services' Central Procurement Office (CPO), Department of Finance and Administration's Division of Budget, and the Comptroller of the Treasury's Office.

TDOT enters into a written agreement (contract) with each subrecipient specifying the terms and conditions of state and federal financial assistance. The contract incorporates the Master Agreement by reference in order to pass through federal requirements to subrecipients. The contract template is updated by CPO. When preparing contracts, Multimodal staff downloads the latest template from the CPO website.

Each project is assigned unique identifiers for use in Tennessee's financial system, Edison. Typically, each subrecipient contract is identified by:

- An FTA Project Number
- A TDOT Project Number
- An Agency Tracking Number (within Edison)
- A Contract Number (assigned after the contract has been approved)
- A Purchase Order Number (assigned after the contract has been approved)

Following the execution of the contract, TDOT submits the information required by the Federal Financial Accountability and Transparency Act (FFATA).

### **6.2 Local Funding Requirements**

In addition to passing through the federal requirements, an important function of the contract is to specify the local share of FTA funded projects. For 5310, 5311, 5317, and 5339 grants, TDOT typically provides matching funds in the amount of one-half of the non-federal share. Federal and local match requirements are presented in the table below. The maximum allowable percentage of the total federal funds to be spent for

each activity is listed first, followed by the required percentages of the total eligible expenses covered by state and local funds.

### Federal, State, and Local Share of Eligible Expenses

Eligible Projects	Federal Percentage	Maximum State Percentage*	Local Percentage
State Program Administration	100%	0%	0%
Project Administration	80%	10%	10%
Operating	50%	25%	25%
Capital	80%	10%	10%
Capital ADA (SAFETEA-LU)	83%	8.5%	8.5%
Capital ADA (MAP-21, FAST Act, & BIL)	85%	7.5%	7.5%
5310 Capital ADA (MAP-21, FAST Act, & BIL)	80%	10%	10%
Planning	80%	10%	10%

\*Subject to funding availability.

United States Department of Transportation (U.S. DOT) program funds cannot be used as a source of local match for the 5310, 5311, 5317, or 5339 programs. Allowable sources for local matching funds include dedicated local tax revenues, private donations, revenue from service contracts, toll revenue credits, and program income generated from advertising and concessions. Program income (such as revenue from advertising or leasing space) may not be used to reduce the local share of the grant from which it was earned, but may be used as local matching funds in future grants. If grantees choose not to use program income for public transportation purposes, then it shall be deducted from total allowable costs to determine the net allowable costs.

### 6.2.1 Use of In-Kind Contributions as Local Match

The value of volunteer services or other in-kind (non-cash) contributions are eligible to be counted toward the local match if several conditions are met:

- The value of any non-cash contribution is documented and supported
- The in-kind contribution represents a cost that would otherwise be eligible under the program
- The value of the in-kind contribution is included in the net project cost in the FTA grant application project budget
- TDOT has provided explicit written permission for the use of the in-kind contribution as local matching funds

## 6.2.2 Contract Service and Revenue

Operating expenses for contract services must be included in total operating expense. Income from contracts to provide human service transportation may be used to reduce the net project cost (treated as revenue). If contract revenue is not deducted from net project cost, then contract revenue earned must be retained for use in public transportation and may be used as local matching funds or for any other public transportation operating or capital expense with or without federal or state assistance. If the contract revenue is used as local match, it can be used for either the grant in which contract revenue was earned or in future grants. If not used for local match, contract revenue must be deducted from capital or operating expenses in the current or future grant or used for other transportation expenses.

TDOT subrecipients are prohibited from spending contract revenue for any program outside of open-door public transportation unless the subrecipient can demonstrate to TDOT's satisfaction that no administrative, operating, maintenance, or capital expense associated with the generation of that contract revenue has been funded with state, federal, or contract revenues subject to these restrictions.

Subrecipients must account for contract revenue earned in their accounting system and the accounting system must be able to identify the amount of contract revenue in reserve and the purpose for which any contract revenue has been expended.

- (1) On an annual basis, TDOT requires the following certifications from the 5311 subrecipients' chief executive: Certification Regarding Contract Service and Vehicle Availability: Certifies that vehicles used for contract service trips are also available for general public transportation.
- (2) Certification Regarding Contract Service & Revenues: Certifies that all revenue generated through contract service is restricted to use in public transportation.

## 6.3 Policy on Extending the Contract Term

In order to promote the efficient use of grant funds, any extension to the contract term must be approved, or initiated, by TDOT. Subrecipients must request an extension using a Contract Revision Request form. It is recommended to submit a term extension request to the office 120 days prior to the expiration of the active contract. A revision to the contract term cannot be made after the contract has expired.

## 6.4 Policy on Revising the Contract Budget

Due to the complexity of completing grant amendments and budget revisions through FTA, subrecipients are encouraged to develop their initial budgets carefully to minimize the need for changes during the term of the contract. However, during the term of the contract between TDOT and a subrecipient, it may become necessary to modify the project budgets. Subrecipients must request an extension using a Contract Revision Request form.

TDOT will consider requests for budget changes on a case-by-case basis. The request must be submitted to TDOT to give time to process a contract amendment before the active contract expires. It is recommended to submit a revision and amendment request to the office 120 days prior to the expiration of the active contract. A revision to a contract cannot be made after the contract has expired. The following guidelines apply:

- Prior to approval of the requested state-subrecipient contract amendment, TDOT must receive FTA approval of any necessary grant amendment or budget revision.
- DMTR shall notify the subrecipient in writing regarding approval, modification, or rejection.

### 6.4.1 Amendment/Revision of FTA Grants

Prior to changing the contract between TDOT and a subrecipient, TDOT must request any needed changes to the grant agreement between TDOT and FTA through TrAMS. State contracts will be amended or revised only after FTA approval is secured.

### 6.4.2 Amendments to the State-Local Grant Contract:

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

- Increase the project amount
- Change the federal/state/local matching ratio
- Alter a budget line-item
- Add or delete a project budget line item from the contract budget
- Extend the period of availability of funds (if the original contract had an extension clause)
- Alter the scope or purpose of the approved project, including:
  - changes to the size, or physical characteristics of items being purchased that are originally under contract
  - changes that will increase or reduce the number of units to be purchased or

constructed where the change differs by 10 percent (10%) or more from the original number of units

## **6.5 Inclusion of Federal Requirements**

The terms of the Master Agreement between TDOT and the FTA are incorporated into contracts with subrecipients by reference.

## **6.6 Additional Contract Provisions**

Additional contract provisions address the following:

- Final and Annual audit requirements for TDOT contracts
- TDOT access to records upon request
- Timeframe for reimbursement and closeouts
- Document retention requirements
- Environmental tobacco smoke
- Other State-required clauses

## **6.7 State Comptroller's Hotline**

Per state law, all transit facilities funded by TDOT must have information publicly displayed so that members of the public may report suspected government fraud, waste, or abuse to the Comptroller of the Treasury. Complaints are submitted through the State Comptroller's toll-free hotline (1-800-232-5454), transcribed, and sent to the appropriate state department for investigation. The Comptroller sends transit-related complaints to TDOT's Internal Audit Division, which in turn sends the complaints to TDOT's DMTR. When a complaint is received, TDOT staff discusses the allegations with the appropriate agency and provides information about the outcome back to the Comptroller.

## **6.8 Reallocation of Residual Funds**

Any residual funds available after the expiration of a contract may be used by TDOT for the following activities, according to Director's discretion:

- Extension of contracts underway
- Reallocated among current subrecipients based on formula distribution
- Reallocated among current subrecipients based on a competitive process
- Other purposes deemed appropriate by the Director of Multimodal

The Commissioner executes all contracts, including those issued with residual funds.

## Chapter 7. Grant Administration

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### 7.1 Accounting Requirements

All subrecipients are required to establish and maintain an accounting system to which all transportation related costs, revenues and operating costs are recorded so that they may be clearly identified, easily traced and substantially documented. While TDOT and the subrecipient shall both be responsible for documenting and supporting all costs charged to the project, TDOT will retain only select expense support documentation and the subrecipient shall retain all detailed expense support documentation and shall provide any detailed documentation upon further requests as TDOT determines necessary.

#### 7.1.1 Indirect Cost Allocation Plans

Subrecipients must have an indirect cost allocation plan in compliance with Tennessee's Department of Finance & Administration Policy 2013-007 ,the indirect cost allocation plan required of all local governments as a basis for indirect cost reimbursement requests. Cognizant agency approval of the plan is required.

TDOT conducts oversight of subrecipient indirect costs through the annual 5311 program application process, periodic compliance reviews, and review of monthly reimbursement requests.

#### 7.1.2 Programmatic Cost Allocation Plans

Agencies receiving funds from both 5311 and 5307 are required to develop a programmatic cost allocation plan as part of the agency's Cost Allocation Plan to ensure costs are charged to the appropriate funding source.

TDOT has worked with subrecipients to develop programmatic cost allocation plans to better segregate the costs attributable to different FTA programs. The methodology used in these cost allocations may vary by subrecipient. Cognizant agency approval of the plan is required.

#### 7.1.3 Force Account Plans

As per FTA Circular 5010.1E, Award Management Requirements, a force account is the use of a grantee's own labor force to carry out a capital grant project. Force account work does not include project administration activities which are otherwise direct project costs.



Prior to using a force account, subrecipients must have written approval from TDOT. TDOT requires subrecipients to prepare a force account plan if subrecipient forces are to be used for a capital project exceeding \$1,000,000. If work to be performed will exceed \$10,000,000, TDOT must submit the force account plan to FTA for prior approval.

## **7.2 Requests for Reimbursement by Subrecipients**

Before a subrecipient may submit a request for reimbursement, a fully executed agreement must exist between the subrecipient organization and TDOT. Subrecipients shall submit invoices on forms and in a manner prescribed by TDOT. Requests for reimbursement will require a completed Schedule of Expenditures (SOE), a completed Invoice Checklist, and any documentation requested by the Program Manager. A subrecipient must also have on file with TDOT a signatory authorization form that designates the individual who has authority to sign invoices on behalf of the subrecipient organization. No request for reimbursement shall be approved for payment if the expenditures took place before the beginning date of the contract or after the term ending date of the contract. After a contract ends, subrecipients have a period of up to ninety (90) days to submit their final invoice or as directed in the contract.

### **7.2.1 Invoice Checklist**

TDOT has developed a checklist which subrecipients are required to submit along with requests for reimbursements. Subrecipients must deduct farebox revenue from gross operating expense to calculate net operating income. Revenue from human service contracts does not need to be deducted from gross operating expense. The invoice checklist also contains a number of questions to enhance oversight of several compliance areas, including procurement, DBE, Davis-Bacon, and farebox revenue. TDOT may add other items to the invoice checklist on an as-needed basis.

### **7.2.2 Statement of Expenditures**

The Statement of Expenditures (SOE) has been developed in partnership with TDOT Finance. All expenses must be incurred during the term of the contract in order to be eligible for reimbursement. The SOE shall be submitted to TDOT no more often than monthly, with all necessary supporting documentation.

Each request shall clearly and accurately detail all of the following required information. Calculations must be extended and totaled correctly:

- Request/Reference Number (assigned by the subrecipient)
- Request Date
- Request Period (to which the reimbursement request is applicable)
- Grant Contract Number (assigned by the state)
- Subrecipient Name
- Tennessee Edison Registration ID Number referenced in preamble of any grant contract
- Subrecipient's Remittance Address
- Subrecipient's contact for request questions (name, phone, and/or fax)
- Itemization of Reimbursement Requested for the Invoice Period— it must detail, at minimum, all of the following:
  - The amount requested by grant budget line-item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by State Comprehensive Travel Regulations are attached to the invoice)
  - The amount reimbursed by grant budget line-item to date
  - The total amount reimbursed under the grant contract to date
  - The total amount requested (all line-items) for the invoice period

Terms of the contract between TDOT and subrecipients include the following items:

- A request under any grant contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by the grant contract and shall be subject to the grant budget and any other provision of the grant contract relating to allowable reimbursements
- A request under any grant contract shall not include any reimbursement request for future expenditures beyond the contract term
- A request under any grant contract shall initiate the timeframe for reimbursement only when the state is in receipt of the invoice and the invoice meets the minimum requirements for the SOE

### **7.2.3 Supporting Documentation for Expenditures**

Supporting documentation shall detail the nature and propriety of the charges. As per the contract terms, TDOT may request any documentation deemed necessary to confirm expenses charged and their allowability. Support documentation shall include a summary sheet showing the itemization of transactions by each Activity Line Item (ALI) as shown in the contract budget. Itemization should include the transaction description and the amount to be billed to the ALI. All support documentation should be organized in a manner which allows documents to be linked to each transaction on the the summary sheet. The support documentation must also be arranged in order of the

transaction on the summary sheet to allow easy review and matching of expenses to totals.

Additional details regarding current expenditure documentation requirements can be found on the Office of Public Transportation website, under Office of Public Transportation Resources.

## **7.3 TDOT Review and Approval of Requests for Reimbursement**

### **7.3.1 Invoice Review Checklist**

When an invoice is received, it is examined along with the supporting documents by the DMTR and TDOT Finance. DMTR implemented the use of a *Invoice Review Checklist* to ensure that Invoice Reviewers examine the invoice and the supporting documentation before an invoice is approved for reimbursement.

### **7.3.2 Reimbursements to Subrecipients**

Approval from DMTR's Director or Assistant Director is required before an invoice is processed for reimbursement. Following approval, DMTR creates a voucher in Edison. TDOT's Central Accounting Division reviews documentation against the contract and purchase orders in the system to ensure that the supporting documentation attached to the voucher corresponds to what is entered in the system. This includes the invoice date and number, the vendor name and address, the amounts, terms, payment instructions, account codes and project information. The vouchers are specifically checked to confirm that attached supporting documents include a signed and approved schedule of expenditures summarizing the expenditure categories and amounts being billed.

Following approval by TDOT Centralized Accounting, the Department of Finance & Administration conducts a review and approves the payment. Funds are then transferred to the subrecipient via ACH or mailed check.

## **7.4 Draw-Down of FTA Funds**

On a monthly basis, TDOT performs a drawdown of FTA funds to request reimbursement for public transit projects that involve federal participation. Funds are drawn for projects in open grants using the FTA's Electronic Clearing House Operation (ECHO) system. Funds are drawn from each grant based on grant activities and are requested or returned using whole-dollar amounts. The specific types of funds drawn are based on Scope Code, Financial Purpose Code (FPC), and Suffix and the account classification codes for each

grant.

## 7.5 Reporting Requirements

### 7.5.1 Program-Specific Service Reporting Requirements for Subrecipients

Reporting requirements vary by grant program and are summarized in the table below. If necessary to obtain compliance, TDOT may withhold reimbursement of invoices if a subrecipient is delinquent in reporting by thirty (30) days or more.

Program	Reporting Requirement
All	<ul style="list-style-type: none"> <li>A Grantee Triannual Checklist will be required of all subrecipients, except 5310-only subrecipients. The checklist touches on numerous compliance issues and alerts TDOT to developments of significance that require attention. All subrecipients are required to report on discrimination complaints quarterly.</li> </ul>
5310	<ul style="list-style-type: none"> <li>5310 subrecipients are required to submit reports to DMTR at a frequency specified in their contract with TDOT. 5310-only vehicle subrecipients must report vehicle identification numbers, mileage, end of quarter odometer reading total miles, number of ambulatory and non-ambulatory individuals, elderly, and persons with disabilities. Basic Vehicle Inspections and a Maintenance Logs are submitted annually to the Asset Monitor. Mobility Management subrecipients must report on project activities undertaken during the reporting period, program outcomes and performance measures.</li> </ul>
5311	<ul style="list-style-type: none"> <li>5311 subrecipients meet their reporting requirements by submitting invoice requests and triannual discussions. The reimbursement request contains a checklist that reports ridership and fare box revenue. Performance data and operating costs are reported annually on National Transit Database (NTD) required forms.</li> </ul>
5317	<ul style="list-style-type: none"> <li>By contract, 5317 subrecipients must submit to TDOT "brief, periodic progress reports to the state as requested." 5317 subrecipients also report ridership statistics on the invoice checklist when requesting reimbursement from TDOT. Subrecipients may also report on the number of new passengers that receive travel training, number of trips by new clients with disabilities, number of site visits conducted by a travel trainer, and the number of trips scheduled by a mobility manager.</li> </ul>
5339	<ul style="list-style-type: none"> <li>5339 subrecipients submit annual reporting on their TAM inventory. Basic Vehicle Inspections and a Maintenance Log are submitted annually to the Asset Monitor. Maintenance Logs are reviewed during the Rural Subrecipient Monitoring three-year cycle.</li> </ul>

## **7.5.2 Federal Financial Reports**

TDOT submits Federal Financial Reports (FFR) as required by the FTA. The FTA currently requires TDOT to submit FFRs quarterly for the State Safety Oversight (SSO), and construction grants. The FTA requires FFRs to be submitted for all other grants on an annual basis.

FFRs are also required in the following circumstances:

- Initial FFR on new grants or grant amendments
- Final FFR on grants during closeout

### **7.5.3 Milestone Progress Reports**

TDOT submits Milestone Progress Reports (MPRs) as required by FTA. TDOT submits MPRs in coordination with the submittal of FFRs.

Milestone updates are reported for each activity line items (ALIs) included in TDOT's grant award from FTA. Revised milestones shall be entered for all grant revisions or amendments. If the estimated completion date for the grant has changed, the revised date shall be entered with an explanation as to why the date has changed.

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

Twice per year, states are required to submit a report to FTA documenting the use of Disadvantaged Business Enterprises for FTA-funded contracting opportunities. TDOT requests pertinent information from subrecipients and compiles data on TDOT contracts for submission to FTA. TDOT's Division of Civil Rights assists in DBE compliance including confirming whether the businesses reported as DBEs by subrecipients are actually TNUCP-certified DBEs. DMTR aggregates information about the expenditures of all grant subrecipients in order to complete the report. All subrecipients that receive planning, capital, and/or operating assistance must submit a DBE report to DMTR. TDOT's Division of Civil Rights submits the DBE report to FTA.

### **7.5.5 Charter Bus Reports**

TDOT requires any subrecipient providing charter service to submit a quarterly charter report. TDOT compiles the submissions from subrecipients and reports charter service activity to FTA at the end of every quarter. TDOT requires agencies to gain TDOT's approval prior to providing charter service.

### **7.5.6 National Transit Database (NTD) Reports**

As a recipient of 5311 funds, TDOT is required to submit data for the National Transit Database (NTD) on an annual basis. Subrecipients of 5311 funds submit the completed NTD forms to TDOT and TDOT submits the data to NTD. Rural subrecipients that also receive 5307 funds and report to NTD directly are required to submit corresponding

financial data to TDOT.

### **7.5.7 Lobbying Reports**

Federal financial assistance may not be used to influence any Member of Congress or an officer or employee of any agency in connection with the making of any federal contract, grant, or cooperative agreement. TDOT's subrecipients, contractors, and third-party contractors that are awarded \$100,000 or more must certify that they will adhere to federal lobbying regulations and must disclose the expenditure of non-federal funds for such purposes per 49 CFR Part 20.

Lobbying regulations do not prohibit general advocacy for transit. Providing information to legislators about the services a recipient provides in the community is not prohibited, nor is using non-federal funds for lobbying, so long as the required disclosures are made.

TDOT reviews lobbying activities with subrecipients on a triannual basis with the Grantee Triannual Checklist. Any subrecipient that receives over \$100,000 in federal funds and employs the services of a lobbyist using non-federal funds must provide TDOT with a form LLL so that TDOT may submit the aggregated information to FTA.

## Chapter 8. **Audit and Closeout**

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### **8.1 Closeout of Contracts with Subrecipients**

#### **8.1.1 Disbursement Reconciliation and Close Out**

In Tennessee, subrecipient contracts have a period of time (generally 60 to 90 days) after the end date of a contract to submit their final invoice. At the end of this period, DMTR staff will begin close out procedures for said grant contract.

#### **8.1.2 Closing the Purchase Order**

The following procedure is used to close a purchase order (PO) after a contract has been fully expended or the term of the contract has ended:

- When a subrecipient submits the final invoice, the invoice is marked “FINAL INVOICE.”
- Staff verifies the contract end date
- After the final invoice has been approved, staff reconciles Edison with the grant reconciliation document
- Following reconciliation, DMTR staff completes a form requesting closure of the PO and submits it to the TDOT Finance Division
- The TDOT Finance Division closes the PO

#### **8.1.3 Closing the TDOT Project**

After the PO has been closed, DMTR begins the internal process of closing out federal and state monies on the expired contract which includes coordination with TDOT Finance for final unencumbrance of funds.

### **8.2 Closeout of FTA Grants**

#### **8.2.1 Grant Closeout**

Grant closeout is initiated when all approved activities are completed and/or applicable federal funds expended. TDOT submits the following in TrAMS as part of the grant closeout process:

- A final budget reflecting actual project costs by scope and activity
- A final FFR
- A final narrative Milestone Progress Report (MPR) indicating the actual



completion date of each ALI

- A list of capital assets purchased under the grant
- A request to deobligate any unexpended balance of federal funds
- Any other reports required as part of the terms and conditions of the grant

## Chapter 9. Procurement

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Procurement procedures used by TDOT and grant subrecipients shall comply with applicable state law and federal requirements. Tennessee uses the following thresholds for federally-funded procurements:

Micro-Purchase	\$0.01 to \$10,000
Small Purchase	\$10,000.01 to \$250,000
Formal Purchase	Over \$250,000

### 9.1 Federal Provisions Applicable to States and Subrecipients

#### 9.1.1 Full and Open Competition

Full and open competition procedures are dependent on procurement types and amounts. Subrecipients must conduct procurement transactions in a manner providing for full and open competition. They are prohibited from restricting competition in federally supported procurement transactions. Some situations that restrict competition include, but are not limited to, unreasonable qualification requirements, unnecessary experience requirements, excessive bonding, noncompetitive pricing practices between firms, noncompetitive awards to firms on retainer, organizational conflicts of interest, "brand name" only specifications, or any arbitrary action in the procurement process.

Sole source procurements are subject to strict scrutiny. Subrecipients that intend to procure through a non-competitive process must provide a justification to TDOT and receive written approval prior to proceeding with the procurement. If TDOT Multimodal division intends to conduct a sole source procurement, Tennessee Code Annotated §4-56-107(a), requires that "all requests of the procuring agency to procure goods or services by negotiation with a single service provider, referred to in this section as a noncompetitive contract, shall be contemporaneously filed with the fiscal review committee of the general assembly, comptroller of the treasury and the chief procurement officer." Additionally, the Fiscal Review Committee coordinates the review process with the Chief Procurement Office and the Comptroller of the Treasury as directed in Tennessee Code Annotated §4-56-107(b)(5)(A).

### **9.1.2 Prohibition on Dividing Procurements to Avoid Requirements**

FTA recipients and subrecipients may not divide a procurement in order to avoid surpassing a threshold that would trigger a requirement for a more complex method. If a subrecipient procures for the same service or product within a twelve (12) month period, TDOT may request that the subrecipient provide an explanation for the repeat procurement.

However, it is important to note that subrecipients may split large procurements in order to make the project feasible for small businesses.

### **9.1.3 Prohibition on Geographic Preference for Vendors**

FTA grant recipients and subrecipients are not permitted to award contracts based upon a geographic (Tennessee) preference, such as Tennessee vendors or vendors in the region where a subrecipient is located. All vendors, regardless of geographic location, must have an equal opportunity to compete for available contracting opportunities. The prohibition on geographic preference for vendors does not preclude consideration of state licensing when procuring architectural and engineering services under the Brooks Act.

### **9.1.4 Procurement of Architectural & Engineering Services**

Architectural and engineering services or qualifications-based procurements that are directly in support of, directly connected to, directly related to, or lead to construction, alteration, or repair of real property, shall be procured in compliance with Brooks Act provisions. Procurement of architectural and engineering services under the Brooks Act is an exception to the Geographic Preference prohibition, if an appropriate number of qualified firms are eligible to compete for the contract.

- Only qualification, and not price, is considered in the first step of the procedure
- Negotiations are first conducted with the most qualified contractor
- Only after failing to agree on a fair and reasonable price may negotiations be conducted with the next most qualified contractor
- The third party contract or subcontract must be performed and audited in compliance with 2 CFR §200.500
- The recipient and third party contractor must accept FAR (Federal Acquisition Regulation) indirect cost rates for the one year applicable accounting periods established by a cognizant federal or state government agency
- After the rate is accepted, the rates will apply for purposes of contract estimation, negotiation, administration, reporting, and payments, not limited by

administration of *de facto* ceilings

- Before requesting or using the above rate, a recipient must notify the affected firms. The data must be kept confidential and may not be accessible by or provided by the agency or group of agencies that share cost data except by written permission of the audited firm

### 9.1.5 **Debarment and Suspension**

FTA grant recipients and subrecipients awarding contracts to vendors over \$25,000 must certify that the vendor is not debarred or suspended from any federal agency. TDOT and FTA subrecipients shall not enter into any third-party agreement with any party included in the US General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs. This pertains to all FTA sponsored program funds. Debarment and suspension can be determined in one of three ways:

- The listing of excluded parties can be located on SAM.gov. A screen print that shows the vendor was not found on the list can be submitted to TDOT together with procurement documentation.
- Debarment and Suspension Clause in the third-party agreement that is attached to either the Purchase Order or included in the contract.
- A Debarment and Suspension Certification that is submitted with the vendor's proposal.

### 9.1.6 **Buy America**

Buy America regulations require that all iron, steel, and manufactured products used in an FTA project are produced in the United States. Vehicle purchases are included in the category of manufactured products. Originally, the iron and steel requirements applied to all construction materials made primarily of iron or steel used in infrastructure projects. On November 15, 2021, the Build America Buy America Act became effective and expanded the products required to meet the Buy America provisions to include other construction materials, such as plastic and polymer-based products, glass, lumber, drywall, and other construction materials. It does not include materials such as cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

FTA has provided exceptions to the Buy America requirements through the issuance of waivers on differing categories of purchases and products. TDOT uses the following waivers for both its purchases and purchases completed with pass through funding to subrecipients.

- Small Purchases – Total purchases less than \$150,000 are not required to apply Buy America provisions. FTA applies Buy America rules based on total allowable purchases costs. This means that all costs of a purchase, even those not subject to Buy America rules, such as labor, are considered in the total value of a purchase to determine if Buy America rules apply to the purchase.
- Rolling Stock – When procuring rolling stock, this waiver allows for the cost of the components and subcomponents produced in the United States to be more than 70% rather than all of the cost of all components and subcomponents of the rolling stock, for fiscal year 2020 and after.
- Microprocessors – Microprocessors, computers, microcomputers, or software, or other such devices, which are used solely for the purpose of processing or storing data have a general public interest waiver. The waiver does not extend to a product or device which merely contains a microprocessor or microcomputer and is not used solely for the purpose of processing or storing data.
- De Minimis Costs and Small Grants – Effective for awards obligated or sub awards made after August 16, 2023, the USDOT issued a waiver for De Minimis Costs and Small Grants. The De Minimis Cost portion of the waiver includes all Buy America applicable items in its scope; iron, steel, manufactured products, and construction materials. The Small Grants portion of the waiver only applies to Buy America construction materials. Note other differences itemized below. For both portions of the waiver, costs are tracked and applied by project rather than by award (federal grant) or subaward.
  - De Minimis Cost Portion: This portion of the waiver allows for a waiver of Buy America preference on the total value of non-compliant products if their value is not more than the lesser of \$1,000,000 or 5% of total applicable costs for the project.
    - The waiver considers only total Buy America applicable project costs, those costs used in the project that are subject to a domestic preference requirement, rather than total allowable costs considered for the small purchases waiver.
  - Small Grants Portion: This portion of the waiver allows for a waiver of construction costs on a project if the total amount of Federal financial assistance applied to the project, through awards or subawards, is below \$500,000.
    - The waiver looks at separately identifiable projects rather than independent purchases considered in the small purchases waiver.

Subrecipients must obtain a signed 49 CFR 661 Buy America certification (before purchase) from each bidder with their offer. Bidders may use the FTA small purchase waiver in their offer when the total purchase price is less than \$150,000. For construction projects, the contractor is required to certify that materials provided either comply or do

not comply. If materials do not comply and the De Minimis Costs and Small Grants waiver does not apply, then a waiver from the FTA must be received before awarding the contract. The subrecipient must contact TDOT if a bidder wishes to request a Build America Buy America waiver other than the De Minimis Costs and Small Grants waiver. These certifications are required to be retained in the contract file and available for inspection upon request.

### **9.1.7 Disadvantaged Business Enterprises**

TDOT utilizes the directory maintained by the Tennessee Uniform Certification Program (TNUCP), for all firms certified by the TNUCP (including those certified by other states.) The TNUCP directory is continuously updated with new certifications and scheduled re-certifications. It contains the information required by 49 CFR 26.31 and is available to the public via the internet at: <https://www.tdot.tn.gov/Applications/DBEDirect>. Certification is by applicable NAICS codes for services and goods provided and for which DBEs are certified.

TDOT is an active participant within the TNUCP and the lead agency administering the certification program. As a TNUCP member, TDOT makes all certification decisions on behalf of all DOT recipients in the state with respect to participation in the DOT DBE program. All obligations of the TDOT with respect to certification and non-discrimination are carried out by TNUCP. TDOT ensures that only firms certified as eligible DBEs by the TNUCP are counted as participants in the TDOT DBE program.

Subrecipients are encouraged to reach out to DBEs and small businesses and they are required to track DBE participation in FTA-funded projects. FTA grant recipients and subrecipients are required to track the usage of DBE firms. Subrecipients can facilitate DBE participation by reducing procurement amounts to ensure competitive participation by DBE's in the bidding process. Notification to DMTR is required if a subrecipient intends to divide a procurement for the explicit purpose of encouraging DBE participation.

### **9.1.8 Awards to Responsible Contractors**

Federal grant recipients and subrecipients must deem the selected contractors as "responsible." Responsible contractors have the following characteristics:

- A satisfactory record of integrity
- Are neither debarred or suspended from federal programs under DOT regulations
- Are in compliance with affirmative action and FTA's Disadvantaged Business

#### Enterprise requirements

- Are in compliance with public policies of the Federal Government per 49 USC Section 5325(j)(2)(B)
- The necessary organization, experience, accounting, and operational controls, and technical skills, or the ability to obtain them
- Are in compliance with applicable licensing and tax laws and regulations
- Sufficient financial resources to perform the contract
- The necessary production, construction, and technical equipment and facilities
- Are able to comply with the required delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments
- Are able to provide a satisfactory current and past performance record

Recipients and subrecipients will be required to maintain documentation as to the contractor's responsibility. TDOT checks this documentation when submitted with the request for procurement.

### **9.1.9 Prompt Payment of Subcontractors**

Under a contract that includes FTA funds, the prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contract receives from TDOT. Prime contractors are not allowed to hold retainage on subcontractors for TDOT contracts. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of TDOT. This clause applies to both DBE and non-DBE subcontracts.

### **9.1.10 Inclusion of Required Third Party Contract Provisions**

When contracting with third parties for goods and/or services, federal grant recipients and subrecipients must incorporate all required federal clauses into the contract with the third party contractor. Additionally, the third party contractor must be contractually obligated to include all of the required federal clauses in contracts with all subcontractors. TDOT will work with subrecipients to determine which clauses are appropriate.

### **9.1.11 Additional Requirements for Procurement of Vehicles**

Additional procurement requirements apply to the purchase of vehicles.

#### **9.1.11.1 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). Any subrecipient that purchases rolling stock must certify to TDOT 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.

Subrecipients must review the manufacturer's Buy America certification and supporting documentation before a contract is awarded to purchase vehicles (pre-award audit). The documentation review shall include vehicle sub-components (place of origin, cost and place of final assembly). Subrecipients are responsible for confirming that the manufacturer can meet the Buy America requirements. If a resident inspection of vehicles during the manufacturing process is required by FTA for a particular procurement, the subrecipient is responsible for arranging this inspection. TDOT DMTR staff will provide technical assistance if needed or requested.

Subrecipients must 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. TDOT maintains the post-delivery certifications in the vehicle asset file.

Documentation demonstrating that pre-award and post-delivery audits have been completed must be provided to TDOT at the time a subrecipient invoices for a vehicle they have procured independently. For vehicles procured through the statewide vehicle contract administered by the Department of General Services, CPO maintains procurement documentation. TDOT maintains the pre-award audits for vehicles.

#### 9.1.11.2 **New Model Bus Testing**

New bus models must be tested at the FTA sponsored test facility in Altoona, Pennsylvania, 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. Bus models that fail to meet one or more minimum performance standards will “fail” their test and thus be ineligible for purchase with FTA funds until the failures are resolved.

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



required. The Altoona bus test report for these procurements must be submitted to TDOT with other procurement documentation. For vehicles purchased off the statewide contract, TDOT collected the Altoona Reports prior to contract award.

### 9.1.11.3 **Five-Year Contract Term Limitation**

Both statewide contracts and subrecipient-procured multi-year contracts for revenue rolling stock may not exceed five years.

## 9.1.12 **Additional Requirements for Purchase of Transportation**

### **Services**

Subrecipients may purchase transportation service from private sector transportation providers as well as public providers. Provision of service must be procured in accordance with the procurement policies identified in this State Management Plan. DMTR shall approve the proposed purchase of service contracts prior to execution by the subrecipient. Under such arrangements, certain conditions apply to the purchase of service contracts:

- The contract for purchased transportation services must be either a cost reimbursement or fixed price contract
- Fixed price contracts shall have the cost calculated on a service or route specific basis, either vehicle or passenger miles, or a combination of both. While fuel cost escalation clauses are acceptable, a contract is not subject to other adjustments related to a contractor's cost experience in performing the contract
- Cost reimbursement contracts should allow for a periodic evaluation of the fixed rate in order to accommodate changes in transportation costs. These contracts establish an estimate of total cost for obligating funds and establishing a ceiling that the contractor may not exceed (except at its own risk) without approval
- Profit is an eligible cost in the contract; however, the amount of profit must be established as a fixed fee, not as a percentage figure
- Depreciation of vehicles is an eligible expense in private sector purchases of service contracts Depreciation must be based on acquisition cost, not replacement cost, and is not eligible if the vehicles were originally purchased with federal funds
- Management or administrative costs incurred by the contract provider should be prorated for only that portion of the operator's service being purchased

## 9.2 **Procurement by TDOT**

### **9.2.1 TDOT Procurement through Department of General Services**

In consultation with subrecipients, DMTR, TDOT's Division of Central Services, and the Department of General Services Central Procurement Office (CPO) collaborate to develop vehicle specifications for buses and conversion vans. These specifications are forwarded to the CPO for review. A pre-bid conference is held with those vendors that have an interest in submitting a bid. During this conference, comments and requests for changes in the specifications are taken into consideration. Once this is completed, an Invitation to Bid document is published. The bids are required to include all applicable FTA contract clauses and certifications. Once the bids are submitted, and after the Invitation to Bid response closing date, they are opened by CPO. CPO and DMTR staff then evaluate the bids and identify the selected vendors. DMTR performs the pre-award audit. After DMTR confirms that the prospective vendor is not debarred or suspended, CPO awards the contract.

When TDOT is ready to purchase a vehicle, a purchase order (PO) is prepared and entered into Edison, the financial management system used by state government in Tennessee. The purchase order specifies the source of funds to be used for each purchase. TDOT shall, as required, arrange for a resident inspector to visit the vehicle manufacturer's production facility during the final assembly period. The resident inspector will monitor the final assembly process and complete an inspection report describing the construction activities and confirming that the vehicles fulfill the contract specifications. When vehicles are delivered, TDOT must ensure that a post-delivery review is completed. The post-delivery review includes a complete visual inspection and road tests to demonstrate that the vehicles meet the contract specifications.

### **9.2.2 Direct Procurement by TDOT**

When procuring goods/services with FTA funds, TDOT is required to follow both the requirements of FTA and the requirements of the State of Tennessee. TDOT procures directly when specialized goods or services are needed. Examples of such procurement may include:

- Consulting services for technical assistance to TDOT and subrecipients
- Planning studies
- Training services for transit agency staff provided under Rural Transit Assistance Program RTAP

Required documentation associated with direct procurements by TDOT will be maintained in the Multimodal Division.

## 9.3 Procurement by Subrecipients

Subrecipients of FTA funds may procure for goods and services in three general ways:

- By ordering from the Tennessee’s Department of General Services’ statewide contracts
- By procuring directly, including through joint procurement, in compliance with the procurement policy adopted by their agency and pertinent federal procurement requirements
- By “piggybacking,” or using the properly-procured vehicle contracts of another transit agency to acquire vehicles

For procurements of consultant services and for procurements of assets in the Micro Purchase range, the grantee should distribute micro-purchases equitably among qualified suppliers. Under applicable state contract provisions the grantee must also obtain prior TDOT approval for micro-purchases of assets with a unit value of at least \$5,000 and a useful life of more than one year.

For procurements of consultant services and for procurements of assets in the Small Purchase or Formal Purchase ranges, TDOT concurrence is required at several points in the procurement process as shown below.

Phase	Required Action	Information Provided by Subrecipient
Planning	Procurement Planning	<ul style="list-style-type: none"> <li>• General description of goods/services to be procured</li> <li>• Reason for the procurement</li> <li>• Technical assistance needed, if applicable</li> <li>• Anticipated method of procurement</li> <li>• Approximate value of procurement (Independent Estimate)</li> <li>• Description of how the procurement will be executed</li> <li>• Applicability of Buy America requirements</li> </ul>
Prior to Advertising	Request to Proceed with Procurement	<ul style="list-style-type: none"> <li>• Description of how the procurement will be executed</li> <li>• Description of the process used for free and open competition</li> <li>• Full technical specifications of items for bid</li> <li>• Draft Request for Bids or Request for Proposal</li> <li>• Draft Proposal Evaluation sheet</li> </ul>

<p>Prior to Signing a contract</p>	<p>Request to Enter into Contract</p>	<ul style="list-style-type: none"> <li>• Bid Tabulation Sheet</li> <li>• Sample Newspaper Advertisement of Bid</li> <li>• Sample Third-Party Contract Agreement</li> <li>• Cost/Price analysis</li> <li>• Identification of the prime contractor and any subcontractors</li> <li>• Verification of TNUCP DBE certification for the prime contractor or subcontractors, if applicable</li> <li>• Plan for monitoring to ensure that DBEs perform the work (if DBEs are included)</li> <li>• Information about whether any preference was given based on geographic location</li> <li>• Analysis and determination that the proposed contractor is responsive and responsible</li> <li>• Single response analysis (if only 1 response is received)</li> <li>• Pre-award Buy America certification (vehicles)</li> <li>• Pre-award Buy America audit (vehicles)</li> <li>• Altoona bus testing report (vehicles)</li> <li>• In-plant inspection (urbanized areas greater than 200,000 people procuring more than 10 vehicles)</li> <li>• In-plant inspection (rural and urbanized areas 200,00 or fewer in population procuring more than 20 vehicles)</li> <li>• TVM certification (vehicles)</li> <li>• FMVSS (vehicles)</li> </ul>
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Subrecipients shall also obtain concurrence from TDOT in special circumstances such as those identified below.

<b>Situation</b>	<b>Required Action</b>	<b>Information Provided by Subrecipient</b>
<p>Contract change order</p>	<p>Request to Amend Contract</p>	<ul style="list-style-type: none"> <li>• Reason and justification for amendment request</li> <li>• Amount to be amended</li> <li>• Cost/price analysis</li> </ul>
<p>DBE change</p>	<p>Request to Remove a DBE Subcontractor</p>	<ul style="list-style-type: none"> <li>• Explanation of the reason the DBE was a subcontractor originally</li> <li>• Explanation of why removal is proposed</li> <li>• Notify the TDOT Civil Rights Division Small Business Development Program in writing</li> </ul>

Certifications and Other Requirements	Comments
Bus Testing Certification and Report	<b>Obtain prior to award</b> Procurements of buses and modified mass produced vans for revenue service
TVM Certifications	<b>Obtain prior to award</b> Procurements of buses and modified mass produced vans for revenue service
Buy America Certification	<b>Obtain signed certification with bid or proposal</b> Procurements of steel, iron or manufactured products over \$150,000
Pre-Award Audit	<b>Obtain prior to award</b> Revenue rolling stock procurements
Pre-Award Buy America Certification	<b>Sign prior to award</b> Revenue rolling stock procurements
Pre-Award Purchaser's Requirement Certification	<b>Sign prior to award</b> Revenue rolling stock procurements
Post-Delivery Audit	<b>Obtain prior to acceptance</b> Revenue rolling stock procurements
Post-Delivery Buy America Certification	<b>Sign prior to acceptance</b> Revenue rolling stock procurements
Post-Delivery Purchaser's Requirement Certification	<b>Sign prior to acceptance</b> Revenue rolling stock procurements
On-Site Inspector's Report	<b>Obtain prior to acceptance</b> Revenue rolling stock procurements for more than 10 vehicles for areas greater than 200,000 in population and more than 20 vehicles for areas of 200,000 or fewer in population
Federal Motor Vehicles Safety Standards Pre-Award and Post-Delivery Certification	<b>Obtain prior to award and then sign prior to acceptance</b> Revenue rolling stock procurements
Debarment and/or Suspension Determination	<b>Perform prior to award</b> Procurements greater than \$25,000
Lobbying Certification	<b>Obtain signed certification with bid or proposal</b> Procurements greater than \$100,000

Certifications and Other Requirements	Comments
Standard Form LLL (when required)	<b>Obtain prior to award</b> Procurements greater than \$100,000 where contractor engages in lobbying activities
Contract Administration System	<b>Verify prior to contract award</b>
Record of Procurement History	<b>Verify prior to payment</b> The file contains a complete procurement history.
Protest Procedures	<b>Verify prior to solicitation</b>
Selection Procedures	<b>Verify prior to solicitation</b> The procurement contains a description of contractor selection method.
Independent Cost Estimate	<b>Verify prior to solicitation</b> An independent cost estimate is in the procurement file.
Cost/Price Analysis	<b>Verify prior to award</b> A cost or price analysis is in the procurement file.
Responsibility Determination	<b>Verify prior to award</b> A contractor responsibility determination is in the procurement file.
Justification for Noncompetitive Awards	<b>Verify prior to award</b> If applicable
No excessive bonding requirements	<b>Verify prior to solicitation</b> If applicable
No exclusionary specifications	<b>Verify prior to solicitation</b>
No geographic preferences	<b>Verify prior to solicitation</b> Except for A&E services
Evaluation of Options	<b>Verify prior to award</b> If applicable
Exercise of Options	<b>Verify prior to award</b> If applicable

### **9.3.1 Procurement through Tennessee Department of General Services**

TDOT encourages subrecipients to purchase from the Statewide Contract for FTA Vans & Buses (234) that is maintained by the Department of General Services' Central Procurement Office. Subrecipients frequently take advantage of the opportunity to purchase vehicles through the CPO. DMTR is responsible for ensuring that state vehicle procurements include all required FTA clauses in bid documents and contracts. All bid documents and contracts are reviewed by TDOT to confirm compliance.

When purchasing equipment, vehicles, or services available on all other state contracts using federal funds, regardless of the amount of federal funds expended, the subrecipient must ensure that appropriate federal clauses are incorporated under a separate document with the selected vendor. This is accomplished by ensuring that the selected vendor is provided a copy of applicable federal clauses and returns a signed document agreeing to the specified clauses to the purchasing subrecipient for inclusion in the subrecipients procurement file.

### **9.3.2 Direct Procurements by Subrecipients**

TDOT permits subrecipients to use the procurement policy that has been adopted by their governing body provided the procurement policy meets all FTA requirements. TDOT reviews subrecipients' procurement policies during on-site compliance reviews. If a subrecipient changes their procurement policy, a copy of the revised policy must be submitted to TDOT for approval. TDOT encourages all subrecipients to have formal bid protest procedures within their procurement policy.

When a subrecipient elects to procure directly rather than through the Department of General Services, they must follow all federal procurement requirements. Subrecipients are required to obtain approval from TDOT at several points in the procurement process for services and for assets with a per unit value of at least \$5,000 or a useful life of more than one (1) year, as shown in the table above. The subrecipient is responsible for settling disputes resulting from any procurement action. TDOT's role in a bid protest shall be limited to the conditions set forth in FTA Circular 4220.1F (as amended).

Each subrecipient shall procure for only the goods or services that they realistically expect to need and utilize. For example, it is not acceptable to procure for a larger quantity of vehicles than the subrecipient actually anticipates purchasing in order to

make the contract available to other agencies for piggybacking.

Upon delivery of the procured item(s), a subrecipient must submit the invoice, proof of payment, and other paperwork depending on the type of purchase to TDOT along with the request for reimbursement. The subrecipient must pre-pay 100 percent (100%) of the contractor's invoice, and TDOT will reimburse the appropriate amount after the subrecipient submits a request for reimbursement.

### **9.3.3 Procurement by "Piggybacking"**

TDOT generally discourages the use of piggybacking as a procurement method. The term "piggybacking" refers to using the properly-procured vehicle contracts of another transit agency to acquire vehicles. Requests to piggyback would be subject to strict scrutiny for compliance with all pertinent FTA requirements.



## Chapter 10. **Construction**

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TDOT's subrecipients may construct and renovate capital facilities for public transportation. In addition to Federal and State rules regarding construction projects, transportation providers must adhere to and satisfy all rules and requirements of their local jurisdiction. Subrecipients engaging in construction must comply with FTA bonding requirements based upon the size of the project.

### **10.1 Planning**

Prior to beginning a construction project, subrecipients must complete appropriate planning and design activities and documents. Subrecipients should identify project goals and use an integrated design process that includes TDOT and stakeholders in a collaborative process early to design low-cost, high quality facilities that best meet project goals.

#### **10.1.1 Feasibility Study**

Subrecipients may retain a consulting firm to scope and study feasibility for proposed construction projects and goals using an appropriate solicitation process. At a minimum, the study will analyze current needs, anticipated future needs, Title VI, and ADA considerations, and may include site considerations, financial analysis, technical feasibility, and operational analysis. The study will consider environmental issues and preservation of historical elements.

#### **10.1.2 Site Selection**

TDOT provides oversight for the scope and siting of transit facilities funded with FTA funds for which TDOT is the Direct Recipient. Subrecipients shall involve TDOT regarding their intent to scope and site a transit-related facility as early as possible. A consulting firm or real estate agent may be retained to compare various properties to determine the most suitable location for project goals. If a donated property is being considered, such property must be appraised at the current fair market value by a licensed appraiser and the appraisal must be submitted to TDOT. Transit service and ridership benefits should be assessed, along with administrative considerations. Prior to the acquisition of a property, a Title VI Equity Analysis that shows assurance of compliance with Civil Rights (Title VI Nondiscrimination) must be performed with technical assistance provided by TDOT staff and/or an on-call consultant.

### 10.1.3 **Environmental Review**

An environment review is necessary for new construction or when a building is purchased for renovation. All proposed project sites must be evaluated and assessed to determine impact, if any, on human and natural environments, including wetlands, streams, high biotic potential, livable communities' considerations, environmental justice and federally protected threatened or endangered species and their habitats. A consulting firm may be used to determine if there are environmental issues that need to be addressed prior to construction.

Subrecipients must perform the appropriate level of environmental review. TDOT will assist subrecipients with the environmental review process and submit environmental documents to FTA for approval. Federal funds will not be made available for any facility purchase or construction until the environmental documents are reviewed and approved by FTA.

Any project involving new construction of a facility or substantial rehabilitation of an existing facility must be discussed with TDOT to get FTA determination for the need for information supporting a Categorical Exclusion (CE) and the applicability of any additional environmental requirements. If an Environmental Assessment (EA) is required, further steps to develop the project will not be authorized (e.g., property acquisition, final design, and construction) until FTA makes a final environmental finding for the project.

A number of environmental statutes, orders, and compliance procedures may apply to a given project even if it is properly classified as a Categorical Exclusion (CE). The environmental requirements include: Clean Air Act (CAA) conformity provisions; protection of public parkland, wetland and waterfowl refuges, and historic sites (49 USC 303); Section 106 of the National Historic Preservation Act (protection of historic and archaeological resources); and Section 404 of the Clean Water Act (Army Corp of Engineers' permit requirements for dredge and fill activities in "waters of the United States").

### 10.1.4 **Land Acquisition**

For land purchases, one (1) copy of the real property acquisition appraisal must be submitted to TDOT for review. TDOT will issue a letter indicating that the transportation provider may proceed with the offer to purchase the land. A copy of the Offer to Purchase shall be submitted to DMTR for review and approval before the subrecipient

enters into a contract to purchase land.

## 10.2 Design Phase

A registered architect or engineer must prepare plans and specifications in accordance with federal and state laws applicable to construction related projects. Regardless of the project cost, all plans and specifications must include the following:

- Major structural or foundation changes
- Major structural change in framing or foundation support systems
- Construction of or additions to public buildings

Separate specifications must be drawn for each of the following four categories regardless of estimated project cost or as may be deemed applicable by the local building inspector:

- Heating, ventilating, air conditioning and accessories
- Plumbing and gas fittings and accessories
- Electrical wiring and installations
- General work relating to the erection, construction, alteration or repair of the building that is not included in the first three categories

### 10.2.1 Selection of a Registered Architect or Professional

#### Engineer

Subrecipient shall retain a qualified registered architect or professional engineer. The subrecipient will issue an A&E qualifications-based procurement indicating requirements for service and provide a description of the project. Selection shall be based on qualifications and competence. Price negotiation is conducted with the most qualified offeror. TDOT shall review and approve the selection process prior to the transit provider entering into a contractual agreement with the selected Architect or Engineer.

### 10.2.2 Schematic Design Phase

The Architect or Engineer, in collaboration with client and stakeholders, shall prepare the following:

- A scaled site and landscaping plan showing location and the size of the facility in relation to existing buildings, roads, walkways, utility service, etc. and exterior elements including hardscape and landscape concepts.
- Single line drawings of the floor plan, including mechanical and electrical rooms,

service areas, elevations, etc.

- A general description of the project based on the designer's studies indicating the construction materials; framing systems; mechanical, electrical and plumbing systems, and ADA compliance,
- A statement of probable construction cost including cost estimates for site work, utility extensions and other items outside the structure

Plans, the independent estimate, and other relevant documentation shall be submitted to TDOT for review. TDOT staff from other Divisions or an on call consultant will assist DMTR staff in reviewing the designs. Following feedback and concurrence, TDOT will issue a notice to proceed to the next phase.

### 10.2.3 **Design Development Phase**

Architect or Engineer, in collaboration with client and stakeholders, shall prepare Design Development Documents (DDD) which include detailed plans and specifications. The DDD will include:

- All basic elements, systems and materials to be used in the project
- A soil investigation report and all other reports or studies relative to the project
- A statement of probable construction cost based upon area, volume or other appropriate units

The Architect or Engineer must receive approval from the local building inspector prior to submitting documents to TDOT. Additional reviews may be necessary if requested by TDOT or required by law. Early collaboration and integrated design may help reduce delay at this phase.

Plans and documentation shall be submitted to TDOT for review and concurrence. Following concurrence, TDOT will issue a notice to proceed to the next phase.

### 10.2.4 **Construction Document Phase**

The architect/engineer shall prepare working drawings and specifications in detail including materials; workmanship; finishes; mechanical and electrical systems; energy and environmental specifications; special equipment; site work; utility connections and services; bidding information; proposal, contract and bond forms; General and Supplementary General Conditions of the Contract; ADA compliance; and any and all other information required for receiving of bids on the project. A Soil and Erosion Control Plan must be filed with appropriate agency.

A cost estimate shall be prepared and submitted to TDOT using quantity take-offs of major components and projected unit costs. Overhead, profit, taxes, insurance, etc., shall be included. Estimates must be prepared for all bid items, including alternates. A complete tabulation shall be furnished showing the breakdown of total appropriated and/or authorized funds. The designer is responsible for bringing the project within the budget as set forth in the design contract.

The subrecipient shall provide plans, permits, and a competitive procurement (Request for Proposals (RFP) or Invitation to Bid (ITB)) to TDOT for review and approval prior to advertising the procurement bid.

## **10.3 Facility Bid and Construction**

In addition to plans and specs, the architect or engineer is responsible for:

- Filing all permits
- Conducting the bid process
- Providing oversight of construction and final closeout
- Development of the Soil and Erosion Control Plan
- Letting the project in accordance with applicable state statutes

### **10.3.1 Facility Bid Requirements**

#### **10.3.1.1 Disadvantaged Business Enterprise Participation**

Subrecipients are encouraged to reach out to TDOT-Certified Disadvantaged Business Enterprises. TDOT may require evidence of good faith effort to attract DBE firms. Subrecipients must track DBE participation and report this information to DMTR.

#### **10.3.1.2 Bid Tabulation**

Bid tabulation and formal requests for funding should be submitted to TDOT for review after bids are opened. Concurrence by DMTR is required prior to entering into a contract with a recommended contractor. Applicable documentation must be submitted to the TDOT for review and approval. Third-party contract documents must also be reviewed by TDOT to ensure that applicable federal clauses are included. A subrecipient may only enter into a contract with the selected contractor after TDOT has provided written approval.

## 10.3.2 **Oversight for Construction Projects**

The subrecipient will provide on-site oversight for construction projects. TDOT may provide oversight for construction projects either using TDOT staff or through the services of a consultant.

### 10.3.2.1 **Buy America**

As discussed in the chapter addressing procurement, all construction contracts must comply with Buy America requirements. Assuring Buy America compliance is a key component of the oversight that TDOT will provide for construction projects.

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

Davis-Bacon Act applies to all construction with a value over \$2,000 that is funded through FTA. Davis-Bacon compliance is reviewed by TDOT throughout the planning and construction process. TDOT requires all subrecipients to include in their supporting documentation for invoices on construction related projects all the WH-347 forms completed for the invoice period for which federal funds have been expended.

### 10.3.2.3 **Americans with Disabilities Act**

All facilities constructed using FTA funds will comply with applicable provisions of the Americans with Disabilities Act (ADA). Plan design review will contain ADA provisions. Construction inspection will contain review to see that project completed according to ADA plan.

### 10.3.2.4 **Requests for Reimbursement**

Subrecipients' requests to TDOT for reimbursement shall be submitted on a monthly basis with supporting documentation. Requests for reimbursement must be completed and signed by the subrecipient and must be accompanied with an itemized list of activities completed, invoices from contractors, evidence of payment, contractor DBE reporting information and Davis-Bacon documentation.

### 10.3.2.5 **Prompt Payment of Subcontractors**

Under a contract that includes FTA funds, the prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contract receives from the subrecipient. Prime contractors are not allowed to hold retainage on subcontractors for TDOT-funded contracts. Any delay or postponement of payment

from the above referenced time frame may occur only for good cause following written approval of TDOT. This clause applies to both DBE and non-DBE subcontracts.

### 10.3.3 **Change Order Procedures**

No change in the construction from the approved plans and specifications shall be made until a change order has been duly prepared and approved by TDOT, except in the case of an emergency that may endanger life or property.

The following procedures and conditions apply in processing a change order:

- Change orders shall be submitted by the architect or engineer to the subrecipient and shall be accompanied by a complete breakdown showing computation of the cost together with a written explanation of the change and reasons for change.
- The designer, by submitting the change order on behalf of the subrecipient, certifies that he/she has examined and analyzed the change order and has found it to be in order, and the cost reasonable.
- The subrecipient shall forward a copy of the change order to the DMTR for final concurrence.
- Incomplete change orders will be returned for correction and completion. Note that the cost breakdown must justify the change in cost.

### 10.3.4 **Final Inspection and Appraisal**

Final inspection of work performed by a competent inspector is the responsibility of the subrecipient. TDOT staff may participate in the final inspection. A copy of the final inspection report shall be submitted to TDOT with final invoice for payment.

### 10.3.5 **Final Appraisal**

Final appraisal of the facility shall be completed within six (6) months from the date of completion.

# Chapter 11. Asset Management

All assets acquired using federal funds for which TDOT was the Direct Recipient shall be used and disposed of in accordance with the applicable FTA program circulars, FTA Circular 5010.1E and 2 CFR Part 200 Subpart D.

TDOT tracks assets that have a purchased unit value greater than \$5,000 and a useful life greater than one year. FTA retains a federal interest in these assets even after the useful life is met. The table below identifies the three types of assets that require tracking and the asset management requirements that apply.

Types of Assets	Asset Management Requirements for TDOT’s Subrecipients of FTA Funds
<ul style="list-style-type: none"> <li>• Vehicles</li> <li>• Equipment</li> <li>• Real Property</li> </ul>	<ul style="list-style-type: none"> <li>• Inventory</li> <li>• Maintenance Plans</li> <li>• Inspection Records</li> <li>• Proof of Insurance and Certifications</li> <li>• Permissible Uses</li> <li>• Useful Life Standards</li> <li>• Disposal</li> <li>• Transfer</li> <li>• Proof of Ownership</li> </ul>

In order to avoid duplication of efforts between TDOT and FTA, TDOT has less rigorous documentation requirements for recipients that are also subject to direct FTA oversight (agencies that are Direct Recipients of 5307 and 5339 funds) compared to subrecipients for which TDOT is solely responsible for providing oversight (agencies that are not Direct Recipients of 5307 and 5339 funds). Key differences between the asset management requirements for these different categories are summarized in the table below. In the discussion to follow, a distinction is made between “FTA-Led Recipients” and “TDOT-Led Subrecipients” based upon which entity has primary responsibility for oversight.

	<b>FTA-Led Recipients</b> (Recipients Subject to Direct FTA Oversight)	<b>TDOT-Led Rural Subrecipients</b> (Subrecipients Only Subject to TDOT Oversight)	<b>TDOT-Led 5310-Only Subrecipients</b> (Subrecipients Only Subject to TDOT Oversight)
Asset Inventory	Annual	Annual	Submitted during Compliance Review
Vehicle Title	Held by Recipient	Titled to Subrecipient, physical title retained by	Titled to Subrecipient, physical title retained by



		TDOT	TDOT
Real Property Title or Deed	Held by Recipient	Held by Subrecipient	Ineligible for Real Property
Permission to Dispose of Assets After Reaching Useful Life	Advance permission from TDOT not required, but TDOT must be notified of disposal if state match was provided	Advance permission from TDOT required	Advance permission from TDOT required
Permission to Dispose of Assets Prior to Reaching Useful Life	Advance permission from TDOT required	Advance permission from TDOT required	Advance permission from TDOT required
Written Maintenance Plans	Not required to submit to TDOT	Required to submit to TDOT	Required to submit to TDOT
Maintenance Records	Not required to submit to TDOT	Submitted during Compliance Review	Annual
Inspection Records	Not required to submit to TDOT	Annual	Annual

In the event that an FTA-Led Recipient receives Triennial Review findings from FTA related to asset management, TDOT may require additional reporting or submittal of documentation as deemed appropriate.

## 11.1 Vehicles

Each vehicle is titled to the agency to ensure their ability to obtain insurance. TDOT has elected not to hold liens on the titles, however, for TDOT-Led Subrecipients, the vehicle title will be retained at DMTR until the subrecipient requests permission to dispose of the vehicle. FTA-Led Recipients will hold their own titles.

### 11.1.1 Inventory

Any vehicles purchased with federal or state funds must be accounted for in the agency's vehicle inventory. Vehicles are to be depreciated in accordance with generally accepted accounting principles. However, depreciation expense is not an allowable cost for reimbursement.

Both TDOT-Led Rural Subrecipients and FTA-Led Recipients must reconcile their vehicle inventory annually. The initial asset information should contain, at a minimum, the following:

- VIN, Make, Year, ADA accessible, Type/Description
- Agency-assigned vehicle number (if applicable)
- Delivery date
- Beginning Active Service Date
- Purchase price
- Funding source(s)
- Percentage of federal, state, and local funds
- FTA Grant Number, TDOT Contract Number, and TDOT Project Number
- Location, usage, condition, and current status
- License plate number
- Expected Useful Life & Useful Life Benchmark
- Depreciation method used by subrecipient
- Projected monthly and or yearly depreciation amount
- Disposal date of vehicle
- Odometer reading (mandatory for rural agencies)
- NTD Vehicle Characteristics (mandatory for rural agencies)

The annual vehicle inventory at a minimum should contain the following:

- VIN, Make, Type/Description
- Agency-assigned vehicle number (if applicable)
- Location, usage, condition, and current status
- Disposal date of vehicle (if applicable)
- Annual Odometer reading (mandatory for rural agencies)

TDOT will reconcile its own perpetual vehicle inventory with the agencies' inventories annually for TDOT-Led Rural Subrecipients and FTA-Led Recipients. Differences will be investigated and resolved in a timely manner.

### 11.1.2 **Maintenance Plans**

Transit systems are required to maintain their property at a high level of cleanliness, safety, and mechanical soundness. Each transit system must establish a maintenance program that, at a minimum, meets the manufacturer's recommendations. Maintenance plans must include preventative maintenance needed for wheelchair lifts and/or any other ADA accessibility features. TDOT-Led Rural Subrecipients and TDOT 5310-Only Subrecipients shall keep a copy of their current written maintenance plan on file with TDOT. TDOT 5310-Only Subrecipients receiving an award for the first time must submit a written maintenance plan for approval prior to putting their first 5310-funded vehicle into service.

If TDOT determines that a transportation provider fails to use or maintain any asset item

properly, the transportation provider will receive written notification and future state and federal assistance may be withheld until adequate measures have been taken to correct the problem. If deemed necessary, TDOT may require the agency to transfer the asset to another transit system or return state/federal funds.

### 11.1.3 **Inspection Records**

Annually, TDOT-Led Subrecipients must submit documentation of inspections for all assets funded with state and federal funds administered by TDOT. Documentation of inspections, including wheelchair lift inspections, must be maintained and subject to review or request for documentation from TDOT. For rural agencies, TDOT will accept the TennCare required inspections conducted by a third-party contractor.

### 11.1.4 **Insurance**

Subrecipients must carry insurance on capital assets to cover the federal interest and state interest in the asset. If a subrecipient is covered by the Tennessee Governmental Tort Liability Act (T.C.A. §29-20-101 et seq.), the following coverage is required:

- Bodily injury or death of any one person in any one accident, occurrence or act \$300,000
- Bodily injury or death of all persons in any one accident, occurrence or act \$700,000
- Injury to or destruction of property of others in any one accident \$100,000

Subrecipients that are not covered by the TCA must carry insurance. The following is the recommended insurance coverage for subrecipients:

- Personal Injury Liability at a minimum of \$300,000 per person and \$1,000,000 per incident.
- Property Damage Liability at a minimum of \$300,000 per incident.
- Comprehensive Coverage with a maximum deductible of \$500.
- Collision Coverage with a maximum deductible of \$500
- Uninsured Motorist Coverage with a minimum of \$50,000 per person and \$100,000 per incident.

Additionally, subrecipients must comply with provisions of Section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 USC 4012a(a), with respect to any project activity involving construction or an acquisition having an insurable cost of \$10,000 or more.

### 11.1.5 **Permissible Uses**

All assets purchased with state and federal transit funding are intended to support the provision of public transportation. However, TDOT does allow incidental use of assets provided that the incidental use does not interfere with the public transit services for which it was originally obtained. Incidental use must be reported to TDOT within sixty (60) days using TDOT forms provided on its website. Ongoing incidental use may be reported quarterly, as approved by TDOT.

Certain additional services (such as meal delivery) are permitted within program funding restrictions as long as they are incidental and do not disrupt the general public service normally provided. However, the cost of these incidental services must be fully allocated and mileage associated with the incidental service must not count towards the useful life of the vehicle. If FTA-funded vehicles are used occasionally to deliver meals, TDOT requires operating costs attributable to meal delivery be paid with non-FTA funds. FTA capital assistance may not be used to purchase vehicles that are used solely for meal delivery or to purchase specialized equipment (e.g., racks, heating, or refrigeration units) related to meal delivery.

During 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 general public if such use is incidental to the primary purposes of the vehicle. Agencies are encouraged to coordinate their resources with other public transportation providers in the service area in order to maximize accessibility and availability of transportation services.

If a TDOT-Led Subrecipient wishes to lease FTA-funded vehicles to another entity, written permission must be obtained from TDOT in advance.

After the minimum useful life of federally-assisted property is reached and the property is no longer needed for the original Award, it may be used by the Subrecipient for other transit projects or transit programs.

### 11.1.6 **Useful Life Standards**

TDOT establishes minimum useful life standards to ensure that vehicles and other equipment are maintained for transit use for their normal service lives. Useful life of rolling stock (vehicles) begins on the date the vehicle is placed into revenue service and continues as long as it is in service in which TDOT has a vested interest in the operation of the vehicle. If a vehicle is rebuilt with federal funds, the useful life must be adjusted to

reflect the new replacement threshold. TDOT allows vehicles to be replaced once a vehicle has met the useful life age or mileage standard, whichever comes first. TDOT has adopted the useful life guidelines as they are presented in FTA Circular 5010.1(series):

Vehicle Type	Years of Service	Miles of Service
Large, heavy-duty transit buses including over the road buses (approximately 35'-40', and articulated buses)	12	500,000
Small size, heavy-duty transit buses (approximately 30')	10	350,000
Medium-size, medium-duty transit buses (approximately 25'-35')	7	200,000
Medium-size, light-duty transit buses (approximately 25'-35')	5	150,000
Other light-duty vehicles used as equipment and in transport of passengers (revenue service) such as regular and specialized vans, sedans, and light duty buses including all bus models exempt from testing in the current 49 CFR part 665	4	100,000
A fixed guideway steel-wheeled "trolley" (streetcar or other light rail vehicle)	25	NA
A fixed guideway electric trolley-bus with rubber tires obtaining power from overhead catenary	15	NA
Simulated trolleys, with rubber tires and internal combustion engine (often termed "trolley-replica buses")	See appropriate category above	NA

### 11.1.7 Out of Service Vehicles

If a vehicle is out of service more than thirty (30) days, TDOT-Led Subrecipients must request written permission from TDOT DMTR's Asset Monitor for the vehicle to be categorized as "out of service."

Reasons for a vehicle to be defined as "out of service" include, but are not limited to:

- Repairs to major components of the vehicle
- Wheelchair lift not functioning properly
- Accident and/or pending lawsuit
- Natural disaster or other state of emergency

For the period of time the vehicle is out of service, the transit provider must ensure that the time does not count toward the minimum useful life and accounting must stop the depreciation calculation. Additionally, incidental service mileage does not count toward the minimum useful life mileage.

Once permission has been granted by TDOT, an ending date will be assigned for the vehicle to be returned to service or disposed of by the agency. When the agency has returned the vehicle to active service, the agency must inform TDOT of the odometer reading and date back in active service. If a vehicle is still out of service at the end of the granted out of service

period, the agency must either put the vehicle back in service, request an extension, or dispose of the vehicle. An extension request must be made on agency letterhead to the DMTR Director, and indicate clear and detailed plans for getting the vehicle back into service. The Director may approve or deny the request at their discretion.

If any vehicle is inspected by TDOT and it is determined by TDOT to be unfit for service, then the vehicle will be taken out of service and not returned to revenue service until the problem is resolved by the subrecipient.

### **11.1.8 Replacement Vehicles**

TDOT-Led Subrecipients whom are awarded funds to purchase a replacement vehicle(s) have ninety (90) days from the beginning active service date of the new vehicle to initiate the disposal process for the vehicle(s) identified in the subrecipient's application for vehicle replacement. The subrecipient may request in writing that a different vehicle be replaced.

### **11.1.9 Disposal of Vehicles**

Transportation providers are required to dispose of vehicles that are federally funded, in part or whole, that are no longer needed to support the public transit program. For TDOT-Led Subrecipients, vehicles purchased with federal funding may not be disposed of or transferred without prior approval from TDOT. Any proceeds retained by the subrecipient as a result of vehicle disposition must be used to support public transportation purposes.

#### **11.1.9.1 Disposal after the End of Useful Life**

If an FTA-Led Recipient disposes of vehicles after the end of their useful life, then a listing of all such vehicles shall be provided to TDOT at the time the inventory is submitted.

If a TDOT-Led Subrecipient decides to dispose of a vehicle after reaching its useful life, accident or total loss, the subrecipient must request approval from TDOT by providing the following:

- A completed prescribed memo Request for Tennessee Title for Disposal
- Two (2) appraisals
- If the vehicle has been destroyed, then the insurance documentation is required rather than the appraisals

To obtain the appraisals required with the Request for Tennessee Title for Disposal

memo, subrecipients may utilize resources such as: Kelley Blue Book (KBB), NADA Guide, dealerships quotes, free online services such as Carfax, Edmunds, etc. If an online search is used to research a vehicle's value, use the make, model, year and VIN number (if possible) to narrow the search. Some websites also allow for additional factors such as specific wear and tear and condition of the vehicle. For online appraisals, the subrecipient must provide a print-out PDF or screen shot, showing all the search and narrowing parameters that were used to arrive at the shown estimate.

DMTR's Asset Monitor reviews the submitted documents for correctness. After the review, the Asset Monitor retrieves the Tennessee Certificate of Title from the vehicle file and sends it to the subrecipient via certified mail. The Asset Monitor notes in the perpetual vehicle inventory that the vehicle is in the disposal process.

Per FTA Circular 5010.1E, if the subrecipient is authorized to sell the vehicle, it will be required to employ proper sales procedures that ensure the highest possible return is achieved in the disposition of the federally assisted asset.

Vehicles must be sold in an open competitive process and are required to be advertised for sale publicly. Advertisement methods can include one or more of the following: newspaper, online marketplaces and/or print publications for vehicle sales, auction, For Sale sign in the window, etc. If a vehicle is sold for an amount less than the lowest amount of the fair market appraisal range, DMTR may investigate the method of sale. Proof of Public Sale/Auction must be provided by the agency upon DMTR request.

The TDOT-Led Subrecipient shall submit the final disposal paperwork within ninety (90) days of receiving the Certificate of Title from TDOT. If there is a delay in the disposal process, then written justification must be provided to the Asset Monitor.

Following the disposal of the asset, the subrecipient submits the following documents:

- Final Disposal of Capital Asset Vehicle Information Sheet
- Copy of receipt or Bill of Sale
- Copy of front and back of Tennessee title with signatures
- Copy of check or proof of money transferred (if applicable)
- Proof of deposit
- Check to TDOT for returning funds to the FTA (if applicable)

DMTR's Asset Monitor reviews the submitted documents for correctness and to ascertain any amount the subrecipient must return to the FTA, per changes to the provisions for transit asset disposition in the Infrastructure Investment and Jobs Act (IIJA) [49 USC §

5334(h)(4)(B)].

- **After November 15, 2021 – Fair Market Value of Over \$5,000:** For rolling stock, equipment and aggregate supplies that have met their minimum useful life and were (1) purchased with federal assistance (2) with a fair market value of more than \$5,000 and (3) sold after November 15, 2021, the subrecipient may retain a portion of the funds. The distribution of the local and federal shares starts with the sales proceeds of the item sold for fair market value. Of that amount, the subrecipient retains \$5,000. Of the remaining amount of the sales proceeds, the federal share must be returned to FTA via a check to TDOT. The subrecipient retains the amount calculated by its percentage of participation in the cost of the original purchase, and the state's percentage of participation.
- **Fair Market Value of Less than \$5,000:** After the useful life of project property is reached, rolling stock and equipment with a unit market value of \$5,000 or less, or supplies with a total aggregate market value of \$5,000 or less, the asset may be sold, or otherwise disposed of with no obligation to reimburse FTA or the state. Records of this action must be retained.

Proceeds retained by the subrecipient from the sale of vehicles with a federal or state interest must be used in the transit program or returned to TDOT. Proceeds from the sale of vehicles may not be used for other programs operated by the subrecipient's agency, all proceeds must stay with the public transportation program. When disposing of a vehicle that has not met its minimum useful life, the funds must be put into another asset. When disposing of a vehicle that has met its minimum useful life, the funds may be used for general transit operation funding.

DMTR's Asset Monitor then updates the perpetual vehicle inventory to document the vehicle disposal. The Asset Monitor then signs the Final Disposal Sheet and documentation is retained per the requirements of Records Disposition Authorization 11026.

#### 11.1.9.1.1 **Disposal via Buyout of Federal and State Interest**

An alternative method of disposal is buyout of the Federal and State interest. This method must be pre-approved by TDOT. After a vehicle has met its useful life and if the subrecipient wishes to retain the vehicle for uses other than originally awarded, subrecipients have the option of buying out the Federal and State interest on the fair market value of the vehicle. Public transportation operators that are Rural Subrecipients



seeking this option must confirm that the vehicle is no longer needed for public transportation. A minimum of three appraisals are required for this option. TDOT uses the fair market value range mid-point to determine the buyout amount. The subrecipient would have to return, via TDOT, the Federal and State interest in the amount above \$5,000 of the fair market value.

**11.1.9.2 Disposal of Vehicle Prior to the End of Useful Life**

All subrecipients must submit a written request to dispose of a vehicle prior to the end of its useful life. A request for vehicle disposal must be accompanied by the following:

- Justification for the disposal
- Request for Tennessee Title for Disposal
- Vehicle Identification Number (VIN)
- Two (2) independent, written appraisals

If the justification for early disposal is based on extenuating maintenance issues, the request must also include:

- Description of the maintenance issues encountered
- The number of days in the shop within the past twelve (12) months
- The total cost of repairs since the vehicle was purchased along with a copy of any repair bills over \$1,000
- Maintenance records for the vehicle

TDOT shall review documentation included in the request for disposition and provide written response to the subrecipient.

If a subrecipient has a vehicle that has not reached the end of its useful life but is no longer needed for revenue service, TDOT will require the vehicle be made available for transfer to another transit system in the state with a demonstrated need to use the vehicle through the remaining useful life. In such a circumstance, the responsibilities of each party are outlined below.

Transferring Agency	<ul style="list-style-type: none"> <li>• Determine under which program the vehicle(s) were purchased;</li> <li>• Submit a request for disposal and required appraisals to DMTR</li> <li>• Make vehicle maintenance history and records available to Receiving Agency;</li> <li>• Provide the vehicle title to the Receiving Agency;</li> <li>• Submit Letter verifying the transfer;</li> <li>• Submit a final vehicle disposal form and accompanying documentation.</li> </ul>
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Receiving Agency	<ul style="list-style-type: none"> <li>• Submit documentation from an official at the receiving agency to DMTR stating their willingness to accept the vehicle and all associated obligations;</li> <li>• Submit a scope of work regarding the type of usage for the vehicle;</li> <li>• Title and Register the vehicle in the Receiving Agency's name;</li> <li>• Submit Capital Asset Sheet and accompanying documentation;</li> <li>• Payment to transferring agency to cover calculated local match (if applicable)</li> </ul>
TDOT DMTR	<ul style="list-style-type: none"> <li>• TDOT receives the subrecipient's request to transfer a vehicle;</li> <li>• DMTR's Asset Monitor reviews the documents to determine what, if anything, is necessary to bring the vehicle(s) into compliance with current FTA regulations;</li> <li>• DMTR's Asset Monitor will update the title file with the transfer information.</li> </ul>

If a transfer is not accepted by another transit system or a need is not demonstrated, TDOT will require the vehicle be sold in an open, public, competitive process as outlined in *11.1.9.2 Disposal after the End of Useful Life*, or disposed as outlined in *11.1.9.2 Disposal of Vehicle Prior to the End of Useful Life*.

## 11.2 Equipment

“Equipment” is defined as an article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds \$5,000. The subrecipient is responsible for the accountability, maintenance, management, and inventory of all property purchased with federal or state funds in a grant contract. Any loss or equipment disposal shall be reported to TDOT.

### 11.2.1 Equipment Inventory

Equipment purchased with federal or state funds must be accounted for in the subrecipient's equipment inventory list. Equipment, such as a wheelchair lift or HVAC unit, that is installed prior to the asset's initial active service does not need to be separately inventoried. Equipment, such as a wheelchair lift or HVAC unit, that is installed after the asset is in active service does need to be separately inventoried. Equipment is to be depreciated in accordance with generally accepted accounting principles. However, depreciation expense is not an allowable reimbursable cost to federal programs if purchased, in part or in whole, with federal funds.

TDOT-Led Rural Subrecipients and FTA-Led Recipients must reconcile an equipment

inventory list annually. The initial equipment information should contain, at a minimum, the following information:

- General description of equipment, manufacturer, and serial number
- Agency-assigned number - mandatory for any equipment without a serial number
- Purchase price
- Funding source
- Percentage of federal, state, and local funds
- FTA Grant Number, TDOT Contract Number, and TDOT Project Number
- Purchase date and beginning active service date
- Location, usage, condition, and current status
- Check number to vendor, if applicable
- Expected useful life (see Section 11.2.6)
- Depreciation method used by subrecipient
- Projected monthly and/or yearly depreciation amount
- Disposal date
- Date of most recent annual inspection

The annual equipment inventory at a minimum should contain the following:

- Serial Number or Agency Assigned Number,
- Type/Description
- Funding Source
- Current status

TDOT will reconcile the statewide Perpetual Equipment Inventory with each TDOT-Led Rural Subrecipient's list annually. Additionally, the equipment list will be traced to the agency fixed asset listing during site visits and/or reviews. Differences will be investigated and resolved in a timely manner. Subrecipients are responsible for the accountability, maintenance, management, and inventory of all equipment purchased totally or in part with federal or state funds. FTA-Led Recipients and TDOT-Led Rural Subrecipients will maintain a perpetual inventory system for all equipment purchased with federal or state funds. Subrecipients will tag equipment with an identification number, which will cross-reference the equipment item on the equipment inventory list. Subrecipients must physically verify all inventory equipment annually.

TDOT-Led Rural Subrecipients are required to notify TDOT in writing of any equipment loss or damage. TDOT-Led Rural Subrecipients shall request written approval from TDOT for any disposal of equipment purchased with federal or state funds.

## 11.2.2 **Maintenance Plans**

TDOT-Led Rural Subrecipients must include equipment maintenance provisions in the maintenance plan submitted to TDOT. The maintenance plan should also address the subrecipients' warranty recovery program in the event that equipment under warranty fails.

## 11.2.3 **Inspection Records**

TDOT-Led Rural Subrecipients are required to submit to TDOT a basic equipment inspection annually on all equipment listed in the Perpetual Equipment Inventory.

## 11.2.4 **Insurance**

Subrecipients must have insurance coverage for replacement of equipment in the event of a fire or theft. Additionally, subrecipients must comply with provisions of Section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 USC §4012a(a), with respect to any project activity involving construction or an acquisition having an insurable cost of \$10,000 or more.

## 11.2.5 **Permissible Uses**

Subrecipients that may be multi-purpose agencies (cities, human resource agencies, development districts, 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 of 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 may buy a network printer used by others, but in return have free use of a color copier funded by another program.)

If a subrecipient wishes to lease FTA-funded equipment to another entity, written permission must be obtained from TDOT in advance.

## 11.2.6 **Useful Life Standards**

The expected useful life of equipment varies widely. At a minimum, the useful life should extend to the end or the warranty period for the equipment. Subrecipients should include the warranty expiration in their equipment inventory. If the useful life for the equipment is different than the warranty period, subrecipients should note the reason in the inventory.

## 11.2.7 Disposal

Transit systems are required to dispose of equipment that are federally funded, in part or whole, that is no longer needed for the purpose for which it was acquired to support the public transit program. To initiate the disposal process, the TDOT-Led Rural Subrecipient must submit the following documents to TDOT:

- Request for Permission to Dispose of Equipment Capital Asset. Once the request has been approved by TDOT, then the required support documentation is required to be submitted within ninety (90) days of the approved request.
- Final Disposal of Capital Asset Equipment Information Sheet
- Copy of Receipt or Bill of Sale for the equipment
- Copy of check or proof of money transferred (if applicable)
- Proof of deposit
- Check to TDOT for returning funds to the FTA (if applicable)
- If the equipment is transferred to another agency, a letter of acknowledgment from each agency is required to verify the transfer of the equipment

If equipment is sold for over \$5,000, DMTR's Asset Monitor will ascertain any amount the subrecipient must return to the FTA, via TDOT. The FTA's interest will be calculated as described above under vehicles.

DMTR staff updates the Perpetual Equipment Inventory to reflect the equipment disposal. The Asset Monitor signs the Final Disposal Sheet and documentation is retained per the requirements of Records Disposition Authorization 11026.

Proceeds retained by the subrecipient from the sale of equipment with a federal or state interest must be used in the transit program or returned to TDOT. Proceeds from the sale of equipment may not be used for other programs operated by the subrecipient's agency.

## 11.3 Real Property

### 11.3.1 Inventory of Real Property

Real property purchased or improved with federal funds that passed through TDOT must be accounted for in the subrecipient's Real Property Inventory. TDOT-Led Rural Subrecipients and FTA-Led Recipients reconcile their inventory annually. The initial real property information shall contain, at a minimum, the following information:

- Description of the property and pictures
- Name of the builder (if applicable)
- Total Cost\*
- Funding source\*
- Percentage of federal, state, and local funds\*
- FTA Grant Number\*, TDOT Contract Number, and TDOT Project Number
- Start and ending date of construction (if applicable)
- Beginning active service date\*
- Address\*, use\*, condition\*, and status
- Useful life\*
- Depreciation method (only applicable for buildings not property)
- Projected monthly and/or yearly depreciation amount (only applicable for buildings not property)
- Deed and insurance information, including summary of conditions on the title\*
- Agency Assigned ID Number
- Receipts for supplies and labor (if applicable)

The annual real property inventory at a minimum should contain the following:

- Description
- Funding Source\*
- Agency Assigned ID Number
- Current Status
- TDOT-Led Rural Subrecipients must also include:
  - Any changes to use\*
  - Annual inspection including condition\*
  - Brief description of improvements, expansions, and retrofits\*
  - If disposed of or disposal in process in the past year:
    - Appraised value\* and date\*
    - Anticipated disposition or action proposed\*
    - Date of disposal\*
    - Sale price\*
    - If excess property, provide reason\*

TDOT will reconcile the statewide Perpetual Real Property Inventory with each agency's list annually. Differences will be investigated and resolved in a timely manner.

TDOT will submit annually to the FTA via TrAMS its inventory of real property in which the Federal government retains an interest. The inventory will include the FTA-funded real property of TDOT-Led Rural Subrecipients. Listed in the inventory will be the required selection of items listed above (marked by \*) in the initial and annual collection of data from subrecipients. TDOT will email the FTA regional office when the inventory

has been uploaded.

### **11.3.2 Maintenance Plans**

TDOT-Led Rural Subrecipients must include real property maintenance provisions in the maintenance plan submitted to DMTR. Maintenance Plans must incorporate the TERM inspection checklist required for the Transit Asset Management plan, which includes general inspection and conditioning of the general facility, any ADA accessibility features, and additional TDOT safety/compliance documentation.

### **11.3.3 Inspection Records**

Real Property must be inspected annually. TDOT-Led Rural Subrecipients are required to submit a TERM Real Property Assessment Form every other year on all properties listed in the Perpetual Real Property Inventory. On the alternate years, TDOT will conduct on-site visits to verify the usage of the real property and complete the TERM Real Property Assessment Form.

### **11.3.4 Insurance**

Subrecipients must hold an insurance policy on real property sufficient to replace or repair damaged structures in the event of fire or storm damage. Additionally, subrecipients must comply with provisions of Section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 USC §4012a(a), with respect to any project activity involving construction or an acquisition having an insurable cost of \$10,000 or more.

### **11.3.5 Permissible Uses**

Any real property acquired with FTA funds must serve the primary purpose of providing public transportation service. Examples of such facilities include transit transfer stations, administrative buildings for transit agencies, and maintenance facilities.

TDOT encourages incidental uses of real property that may raise additional revenues for the transit system or, at a reasonable cost, enhance system ridership. The incidental uses of real property must be compatible with the original purposes of the contract and must be approved by TDOT in writing prior to implementing such incidental use. If a subrecipient wishes to lease FTA-funded real property to another entity, written permission must be obtained from TDOT in advance. Incidental use of 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 the intention of DMTR to assist only in the purchase of property that is needed for an FTA project.
- **Purpose and 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:** DMTR is interested in encouraging incidental use as a means of supplementing transit revenues; however, non-profit uses are also permitted.

#### **11.3.5.1 Excess Real Property Inventory and Utilization Plan**

Excess property is property that the subrecipient determines is no longer required for its needs or fulfillment of its responsibility under an FTA/state-assisted grant. Property no longer needed shall be used for other purposes or removed from service. Subrecipients are required to notify TDOT when federal interest property is put to additional or substitute use. If a subrecipient has excess property then the subrecipient must prepare or update an Excess Real Property Utilization Plan. This plan lists each real estate parcel acquired with participation of federal/state funds that is no longer needed for approved FTA/state project purposes and states how the subrecipient plans to use or dispose of the excess real property.

#### **11.3.6 Useful Life Standards**

The completion of the useful life of real property does not eliminate state or federal interest in the property. There is a federal interest in real property purchased in whole or in part with federal funds as long as the subrecipient owns the property.

Determining the useful life of a facility must take into consideration such factors as the type of construction, nature of the equipment used, historical usage patterns, and technological developments. Based on any of the methods identified in 5010.1 Chapter IV, a railroad or highway structure has a minimum useful life of 50 years, and most other buildings and facilities (concrete, steel, and frame construction) have a useful life of 40 years.

#### **11.3.7 Disposal**

In the event that disposal is necessary, the subrecipient will contact TDOT prior to taking any action. TDOT will work with the subrecipient and FTA to ensure that the disposal complies with all requirements. TDOT may utilize on-call consultants for technical



assistance. Insurance proceeds or proceeds from the sale of federal or state interest real property that are retained by the subrecipient must be used for public transportation purposes. TDOT will be in contact with FTA on a case-by-case basis for real property disposal methods.

## **11.4 Transit Asset Management Plan**

As the State Department of Transportation that serves as the administrator and recipient of FTA funds, TDOT is the sponsor of a Group Transit Asset Management (TAM) Plan for Tier II subrecipient agencies that receive Section 5311 Rural Area Formula Program funding. All eleven of TDOT's rural providers qualify as Tier II operators and opted to be part of the TDOT Group TAM Plan.

### **11.4.1 TAM Plan Requirements/Compliance**

The Group Transit Asset Management (TAM) Plan fulfills the requirements of the Federal Transit Administration's (FTA) Final Rule, Volume 81, No. 143, on Transit Asset Management. The rule encompasses a state of good repair and the data collection, prioritization, and data delivery to the National Transit Database (NTD).

A Tier II Group TAM Plan includes four (4) elements of the Final Rule as follows:

- **Inventory of Capital Assets:** An inventory of the number and type of capital assets to include: rolling stock, facilities, and equipment - 49CFR§625.25 (b)(1)
- **Condition Assessment:** A condition assessment of those inventoried assets for which the transit provider has direct ownership and/or capital responsibilities - 49CFR§625.25 (b)(2)
- **Decision Support Tools:** A description of the analytical processes and decision support tools that the Authority uses to estimate capital investment needs over time, and develops its investment prioritization - 49CFR§625.25 (b)(3)
- **Investment Prioritization:** The list of project-based prioritization of investments. - 49CFR§625.25 (b)(4)

The TAM Plan must cover a horizon period and be updated in its entirety at least every four years. The Plan can be amended as needed, or when there is a significant change to the asset inventory, condition assessment or investment prioritization.

In addition to the TAM Plan, the TAM Final Rule requires the submission of two additional reports to the FTA's National Transit Database (NTD) with the annual reporting package.

- The Data Report should describe the condition of the transportation system currently and the State of Good Repair performance targets for the upcoming year
- The Narrative Report should describe the changes in the transportation system condition and report progress on meeting the performance targets from the prior year, and describe any revisions to the established goals.

Each transit provider must designate an Accountable Executive to ensure appropriate resources for implementing the agency's TAM Plan. The Accountable Executive of each participating agency is expected to approve the Plan and is ultimately responsible for implementation of the Plan at the participant agency. See TDOT's TAM Plan for provisions.

## Chapter 12. Civil Rights

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TDOT must ensure that subrecipients are in compliance with all civil rights requirements that apply to Tennessee Department of Transportation (TDOT) and Federal Transit Administration (FTA) assisted projects and activities. The applicable civil rights program areas are:

- Americans with Disabilities Act of 1990 (ADA)
- Section 504 of the Rehabilitation Act of 1973
- Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.)
- Environmental Justice
- Equal Employment Opportunity (EEO)
- Disadvantaged Business Enterprise (DBE)
- Limited English Proficiency

### 12.1 Americans with Disabilities Act (ADA)

#### 12.1.1 ADA Requirements for Facilities

All facilities constructed by subrecipients using FTA funds must comply with relevant ADA requirements. TDOT staff and/or an on-call consultant will provide technical assistance to ensure ADA compliance.

#### 12.1.2 ADA Requirements for Transit Service

Subrecipients must comply with all federal regulations pertaining to the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Such transit service, when viewed in its entirety, must be provided in the most integrated setting feasible and be equivalent with respect to:

- Response time
- Fares
- Geographic service area
- Hours and days of service
- Restrictions on trip purpose
- Availability of information and reservation capability
- Constraints on capacity or service availability

TDOT staff will be available to provide guidance to applicants on the analysis and documentation required to demonstrate that service offered to individuals with disabilities is equivalent to the level and quality of service offered to individuals without

disabilities. Subrecipients that operate fixed-route transit service must also provide required paratransit service per federal requirements. ADA compliance is evaluated during on-site compliance reviews. In the event that an ADA-related complaint is received by TDOT, DMTR works with TDOT's designated ADA Coordinator to address the issue.

### 12.1.3 **ADA Complaint Procedures**

TDOT provides oversight for subrecipients' compliance with ADA requirements. Subrecipients' ADA complaint procedures must be written in accordance with Chapter 12 of [FTA Circular 4710.1](#), Americans With Disabilities Act (ADA): Guidance. Subrecipients must report all ADA complaints to TDOT within thirty (30) days of the alleged act of discrimination. When there is an ADA complaint, TDOT's ADA Coordinator investigates the situation. Records about complaints and their resolutions are maintained by the ADA Coordinator.

## 12.2 **Title VI and Environmental Justice**

The Tennessee Department of Transportation (TDOT) is a "primary recipient" of federal transportation funds. As a regulatory condition of receiving these funds, TDOT is required to administer a program that establishes Title VI goals and objectives which pertains to highway and transportation programs. TDOT Civil Rights Division (CRD) is responsible for administering, implementing, monitoring compliance with the Title VI program and investigating Title VI complaints alleging discrimination. The focal point of nondiscrimination law is Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin. However, the broader application of nondiscrimination law may be found in other statutes, regulations, and executive orders. Discrimination based on gender, disability, and age is prohibited as well as inequitable treatment of persons as a result of projects which are undertaken with federal financial assistance. The Civil Rights Restoration Act of 1987 clarifies that Title VI includes all programs and activities whether they are federally funded or not.

The CRD is responsible for initiating and monitoring the activities of all TDOT Divisions, all program areas, and oversight of subrecipients for Title VI compliance. TDOT's Title VI Plan delineates what TDOT will do to prevent discrimination in federally funded activities, projects, how it will achieve this objective, and identifies the procedures for ensuring Title VI compliance.

Title VI assurances are the foundation of TDOT's commitment to nondiscrimination. TDOT monitors its subrecipients for compliance with the principles specifically set forth

in the law. TDOT also acknowledges its responsibilities to work toward increased effectiveness regarding Title VI compliance.

The CRD utilizes a staggered monitoring process to accomplish the mission of reviewing and monitoring TDOT's subrecipients for compliance. TDOT's Title VI staff evaluates the past performance of its subrecipient. If the subrecipient has demonstrated a commitment to Title VI and all applicable nondiscrimination mandates and has maintained a strong Title VI Program, the entity is placed on a three-year review cycle with a requirement to annually affirm there has been no changes or document and provide supporting documentation of changes to the existing Title VI Program. This annual affirmation process is achieved when the CRD receives a signed "Annual No-Change Affidavit and Assurance" affirming that, at a minimum, no Title VI complaints have been received or that the CRD was notified of receipt of a complaint, and that each subrecipient's Title VI Coordinator's training is current. This review process affords the CRD additional time to provide technical assistance and training to subrecipients who have a marginal Title VI Program or those who require additional assistance in developing a new Title VI program.

### **12.2.1 Title VI Complaints**

TDOT administers all FTA programs in accordance with Circular 4702.1B, "[Title VI Requirements and Guidelines for Federal Transit Administration Recipients](#)." Any person who believes that a department or agency receiving federal financial assistance has discriminated against someone on the basis of race, color or national origin may file a complaint. These procedures apply to all complaints filed under Title VI of the Civil Rights Act of 1964, relating to any program or activity administered by TDOT or its subrecipients, consultants, and/or contractors. Intimidation or retaliation of any kind is prohibited by law.

These procedures are part of an administrative process that does not provide for remedies that include punitive damages or compensatory remuneration for the complainant. Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal mediation meeting(s) between the affected parties and the Title VI Program Director may be utilized for resolution, at any stage of the process. The Title VI Program Director will make every effort to pursue a resolution of the complaint. Initial interviews with the complainant and the respondent will request information regarding specifically requested relief and settlement opportunities.

Subrecipients' Title VI complaint procedures must be written in accordance with Chapter III of FTA Circular 4702.1B. Subrecipients must report all Title VI complaints to TDOT within thirty (30) days of the alleged act of discrimination. DMTR will refer Title VI complaints to the CRD for investigation and recordkeeping.

The following Title VI materials are available by request from the TDOT Civil Rights Division, at TDOT Headquarters or Regional Office, or on the [TDOT Title VI Program website](#) as shown below.

TDOT's Title VI Complaint Procedures	<a href="#">Click Here</a>
TDOT Title VI Complaint Form	<a href="#">Click Here</a>
TDOT's Nondiscrimination Statement	<a href="#">Click Here</a>

### 12.2.2 **Environmental Justice**

In accordance with Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations* and FTA Circular 4703.1, *Environmental Justice Policy Guidance for Federal Transit Administration Recipients*, TDOT and its subrecipients are required to make environmental justice part of their agency's mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and/or low-income populations. Environmental Justice (EJ) includes incorporation of environmental justice and non-discrimination principles into transportation planning and decision-making processes as well as project-specific environmental reviews.

There are three (3) guiding principles of environmental justice:

- 1) To avoid, minimize, and mitigate disproportionately high and adverse effects
- 2) To ensure the full and fair participation by all potentially affected communities
- 3) To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations

TDOT subrecipients are required to conduct an environmental justice analysis, where appropriate, to determine if planned activities/programs/policies will result in a

“disproportionately high and adverse effect on human health or the environment.”

TDOT subrecipients are required to have a plan for engaging environmental justice populations in the decision-making process.

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

A11 5311 subrecipients are required to submit assurances indicating their compliance with FTA's EEO objectives as detailed in FTA Circular 4704.1A *Equal Employment Opportunity (EEO) Act Guidance* to TDOT. The following thresholds have been established by FTA:

### **EEO Program**

- Subrecipient employs 100 or more transit related employees
- Subrecipient requests or receives capital or operating assistance in excess of \$1,000,000 in the previous Federal fiscal year, or requests or receives planning assistance in excess of \$250,000 in the previous Federal fiscal year

If the subrecipient meets or exceeds both thresholds, then they must submit an entire EEO program.

### **Abbreviated EEO Program**

- Subrecipient employs between 50-99 transit related employees
- Subrecipient requests or receives capital or operating assistance in excess of \$1,000,000 in the previous Federal fiscal year, or requests or receives planning assistance in excess of \$250,000 in the previous Federal fiscal year

If the subrecipient meets or exceeds both thresholds, then they must submit an abbreviated EEO program.

### **12.3.1 Affirmative Action Program & EEO Compliance**

#### **Procedures**

TDOT is required to submit an Affirmative Action Plan (AAP) to Federal Highway Administration (FHWA) with a copy to FTA. FHWA has the lead responsibility for reviewing and approving TDOT's AAP.

Any transit agency with fifty (50) or more transit-related employees AND either receives capital or operating assistance in excess of one (1) million dollars, OR receives planning

assistance in excess of \$250,000, must submit an Equal Employment Opportunity (EEO)/Affirmative Action Plan to TDOT every four (4) years. The CRD's Equal Employment Opportunity/Affirmative Action Program staff will provide technical assistance to the DMTR as needed. All eligible subrecipients EEO Plans will be reported to FTA annually in the Affirmative Action Plan and/or update.

### 12.3.2 **FTA/EEO Complaint Procedures**

Subrecipients' EEO complaint procedures must be written in accordance with [FTA Circular 4704.1A](#) Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients. All EEO-related complaints will be investigated by the subrecipient's EEO Officer. Subrecipients will be required to compile and submit to TDOT a quarterly report of all EEO complaints. The report shall include the Name of the Complainant, Agency Name, and the Resolution of the Complaint. All FTA related complaints will be reported to FTA annually in TDOT's Affirmative Action Plan and/or update.

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

It is the policy of TDOT to implement the provisions of 49 CFR Part 26 with the following objectives:

- To ensure nondiscrimination in the award and administration of United States Department of Transportation assisted contracts in TDOT's highway, transit, and airport financial assistance programs
- To create a level playing field on which DBE's may fairly compete for DOT assisted contracts
- To ensure that TDOT's DBE Program is narrowly tailored in accordance with applicable law
- To ensure that only firms that fully meet the eligibility standards specified in 49 CFR Part 26 are permitted to participate as DBEs
- To help remove barriers to the participation of DBEs in DOT-assisted contracts
- To assist the development of firms that can compete successfully in the marketplace outside the DBE Program

### 12.4.1 **Establishment of DBE Goals**

TDOT is in FTA Group C for the purposes of reporting DBE goals and is required to establish and submit DBE goals every three (3) years. TDOT's FTA Goal-Setting Methodology and Goal is submitted every three years to be approved by FTA. The three year DBE goals for FTA funds are developed in tandem with TDOT CRD Small Business



Development's goal-setting process for FHWA.

The establishment of DBE goals for FTA funds are made every three (3) years in consultation with minority, women, and general contractor groups, community organizations, and other officials or organizations. These parties may provide TDOT with information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and a grantee's efforts to establish a level playing field for the participation of DBEs.

DMTR together with TDOT CRD Small Business Development Program will conduct a consultative process by reaching out to DBEs by email and/or at a workshop to get input into the development of the DBE goal.

A public notice announcing the proposed overall goal and its rationale will be made available for inspection during normal business hours. In summary, the TDOT outreach process is outlined as follows:

1. Meetings to provide public participation.
2. Invitations sent to all DBEs currently on the Tennessee Uniform Certification Program (TNUCP) certification list prior to meeting.
3. Public notices are sent out with a 45-day comment period in local papers and media with the three (3) year goal proposed.
4. Any written and verbal comments are recorded and plan revised to address the consultation process.

DBE goals for specific projects may vary from the long-range DBE goal; however, overall DBE usage should be consistent with meeting the established goal. In the event that the actual expenditure for goods and services provided by DBEs fails to meet the established DBE goal, TDOT will perform a shortfall analysis per FTA guidelines and determine whether corrective action is necessary.

#### **12.4.2 DBE Monitoring**

DBE Liaison Officer (DBELO) will be responsible for the monitoring and operation of the DBE program in consultation with the TDOT CRD Small Business Development Program and DMTR grant monitoring staff. The DBELO will be the main contact for the Department for all issues or complaints related to the DBE Program.

Subrecipients will be required to ask all DBE firms working on a federally funded project to complete a Commercially Useful Function Checklist and to submit it to TDOT DMTR. The

DBELO will work with the transit monitoring unit to review the completed checklist and follow up with a field visit to the project location if required. Subrecipients are required to confirm that the DBE itself is performing a commercially useful function (CUF) and it is carrying out its responsibilities by actually performing, managing, and supervising the contract or subcontract work. All DBE prime contractors and subcontractors will be required to participate in the CUF.

## **12.5 Limited English Proficiency**

TDOT subrecipients are required to conduct a Four-Factor Analysis of their respective service area every three years. TDOT's DMTR is assisted by TDOT's CRD in providing oversight for LEP compliance. The need for enhanced language services increases with the following four factors:

- The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee
- The frequency with which LEP individuals come in contact with the program
- The nature and importance of the program, activity, or service to people's lives
- The resources available to the recipient and costs associated in providing the resources

After completing the above Four-Factor Analysis, subrecipients may determine the appropriate "mix" of LEP services required. Subrecipients are required to have established LEP procedures in place and to train staff on the established procedures. Subrecipients have two main ways to provide language services: 1) oral interpretation, either in person or via telephone interpretation service, and 2) written translation. The correct mix of language service provisions shall be based on the results of the Four-Factor Analysis and what is deemed both necessary and reasonable.

## **12.6 Uniform Relocation Assistance and Real Property Acquisition Policies Act**

The subrecipient agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 USC §4601 et seq.; and with U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR Part 24. TDOT shall be kept informed and involved in all phases of planning and construction.

## Chapter 13. Drug and Alcohol

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### 13.1 State Drug-Free Workplace Compliance

TDOT Policy Number: 230-02, "Drug-Free Workplace," is administered by TDOT's Division of Human Resources. Authority is drawn from:

- Title 41 USC Section 702
- Tennessee Department of Human Resources publication *Tennessee State Employee Handbook*
- Tennessee Code Annotated (TCA) 4-3-2303

The policy applies to all TDOT employees and employees must sign a form acknowledging the policy at the time of employment. It is the policy of the Department to adhere to federal and state laws, rules and policy concerning a drug-free workplace. It, therefore, is unlawful and prohibited to manufacture, distribute, possess or use a controlled substance in or on the workplace. Such manufacture, distribution, possession or use while on the job or state property will subject the violator to discipline up to and including termination.

Each employee is required by law to inform TDOT within five (5) days after he or she is convicted for violation of any federal or state criminal drug statute that occurred while on state property. A conviction means a finding of guilt (including a plea of *nolo contendere*) or the imposition of a sentence by a judge or jury in any federal or state court. TDOT's policy is to notify the granting agency within ten (10) days after receiving notice from the employee or otherwise receiving actual notice of such a conviction.

If an employee is convicted of violating any criminal drug statute while on the workplace, he or she will be subject to discipline up to and including termination. Alternatively, the Department may require the employee to successfully finish a drug abuse program. As a condition of employment or continued employment, the law requires all employees to abide by this policy.

Tennessee offers an employee assistance program called the ParTNers EAP that is a resource for employees struggling with drug or alcohol problems as well as a wide range of other issues. This benefit is available to full-time employees and eligible dependents regardless of whether or not they are enrolled in health coverage. The EAP also offers seminars on various issues of interest at locations across the state.

## 13.2 Subrecipients' Drug and Alcohol Programs

Recipients of 5311 funds are required to have a drug and alcohol testing program with a written policy approved by their governing body. The purpose of the testing program is to help prevent accidents, fatalities, and injuries resulting from misuse of alcohol or the use of prohibited drugs by employees who perform safety sensitive functions. Compliance with the regulations is a condition of FTA funding. Where applicable, recipients of FTA funding are also required to comply with drug and alcohol requirements of the Federal Railroad Administration (FRA), to comply with the Federal Motor Carrier Safety Administration (FMCSA), and to comply with the United States Coast Guard (USCG). Recipients or subrecipients that receive only Job Access and Reverse Commute (JARC), New Freedom, 5339 or 5310 assistance are not subject to FTA's drug and alcohol rules, but must comply with the FMCSA's drug and alcohol testing rule for employees who hold commercial driver's licenses.

FTA's rule requires testing of employees who perform a safety-sensitive function, which is defined in 49 CFR 655.4. The rule requires the following six (6) types of testing:

- Pre-employment for drugs (including transfer from a non-safety-sensitive position to a safety sensitive position)
- Reasonable suspicion
- Random
- Post-accident
- Return-to-duty
- Follow-up

The rule requires each employer to establish and implement a substance abuse prevention program consisting primarily of a testing program but with elements requiring training, educating, and evaluating safety-sensitive employees. The rule requires the development of a detailed policy statement that must be distributed to all safety-sensitive employees and employee organizations. In addition, the 49 CFR Part 655 Subpart D establishes alcohol concentration levels and prohibited behavior, and employers are directed to take specific action on the basis of the level of alcohol concentration.

TDOT provides oversight for subrecipients' drug and alcohol programs during on-site compliance reviews and through periodic monitoring by the DMTR staff responsible for drug and alcohol program compliance. DMTR staff reviews and submits the TDOT and subrecipient report to FTA via the Drug and Alcohol Management Information System

(DAMIS) on an annual basis.

TDOT provides technical assistance in the area of drug and alcohol policy development to subrecipients. Subrecipients are requested to send any changes made to the Drug and Alcohol Program adopted by their governing body to TDOT within two (2) weeks of the change. TDOT reviews subrecipients' drug and alcohol policy as part of compliance monitoring. Various trainings on drug and alcohol oversight are also provided through contractors.

TDOT will require all 5311 subrecipients provide TDOT documentation verifying that all parties involved in drug/alcohol testing (MROs, SAP, etc.) are appropriately and currently certified to perform their respective functions.

## Chapter 14. Other Provisions

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### 14.1 Complaint Procedures

#### 14.1.1 Local Complaint Procedures

TDOT requires all subrecipients to have procedures in place for logging complaints and addressing them in a manner that incorporates due process. Specific requirements for ADA, Title VI, and EEO complaint procedures are referenced above in those respective sections. Complaint procedures are reviewed during on-site compliance reviews. The following are recommendations on what subrecipients' general complaint procedures should provide:

- A detailed description of the procedures for filing a complaint
- Prompt and equitable resolution
- An opportunity for the complainant to provide additional information
- Notification to complainant of who to contact regarding the status of the complaint
- An appeal procedure

#### 14.1.2 DMTR Complaint Procedures

A complaint submitted to TDOT should detail the exact nature of the complaint and be accompanied by sufficient information to enable DMTR to make a preliminary determination as to whether probable cause exists to believe that a violation has taken place. DMTR may undertake an investigation process when this is deemed necessary. If further action is desired by the complainant, the FTA procedure may be followed.

Complaints can be sent to:

TDOT Division of Multimodal Transportation Resources  
James K. Polk Building  
505 Deaderick Street, Suite 1200  
Nashville, Tennessee 37243  
TDOT.OMAT@tn.gov

or to:

TDOT.Comments@tn.gov, an email site on the Tennessee State Website.  
TDOT Community Relations  
505 Deaderick Street, Suite 700  
Nashville, Tennessee 37243

Telephone number: (615) 741-2848

## 14.2 Records Retention and Disposition

The Records Management Division (RMD) was established by Tennessee Code Annotated 10-7-303 to assist state agencies in establishing systematic controls for the efficient use and sound preservation of state records. The RMD serves as the primary records management agency for the State of Tennessee and provides professional consultative and analytical records management leadership to agencies.

The RMD is further directed by the Public Records Commission (PRC) to serve as administrative liaison between state agencies and the PRC, to establish procedural guidelines for paper and electronic records oversight and retention, and to coordinate efforts supporting the state's Paperwork Reduction and Simplification Act of 1976 (TCA 4-25-101).

Tennessee's Public Records Committee approved a Records Disposition Authority (RDA #11026 for FTA-funded grants) which requires that public records pertaining to federal grant programs will be retained for five (5) years after the later of the last transaction date under the grant or the last disposal date of the last inventoried asset remaining that was purchased with grant funds. Paper records may be stored and/or the scanned documents will be maintained on TDOT's FileNet. After confirming that all records are stored on FileNet, TDOT may destroy the paper records. Documentation, either paper or electronic, will be maintained until five (5) years following the later of the last transaction date under the grant or the last disposal date of the last inventoried asset remaining that was purchased with grant funds.

Subrecipients are subject to records retention requirements which are addressed in the contract between TDOT and FTA subrecipients. All subrecipients, contractors, and subcontractors shall maintain all documentation for a period of time specified in their contract with TDOT. TDOT requires subrecipients to maintain documentation for each contract until they receive permission from TDOT's DMTR to dispose of those records. TDOT will not provide permission to dispose of documentation until five (5) years after the later of the last transaction date under the grant or the last disposal date of the last inventoried asset remaining that was purchased with grant funds (the same point in time that TDOT will destroy the records for a given FTA grant). The exact date when subrecipients may dispose of records is not known at the time the contract is developed because it is not known when the last asset disposal will take place.

### 14.3 Employee Protection Provisions of 5333(b) (5311)

Subrecipients must assure compliance with the provisions of Section 5333(b) of the Federal Transit Act. The subrecipient shall indicate 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 5311 grant program and/or of any other surface public transportation provider in the service area of the project.

### 14.4 Restrictions on 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 the FTA and 5310 and 5311 subrecipients certify to TDOT. State agencies and subrecipients must also impose lobbying restrictions on their third-party contractors and must obtain certifications from the contractors stating such restrictions compliance. 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.

<b>Lobbying</b>	<b>Not Lobbying</b>
<ul style="list-style-type: none"><li>• Influencing federal officials about specific grants or legislation</li><li>• Asking legislators (federal or state) for support of a particular application or bid</li></ul>	<ul style="list-style-type: none"><li>• Submitting grant applications,</li><li>• Status inquiries</li><li>• Professional and technical advocacy for the transit programs in general.</li></ul>

Subrecipient responsibilities include:

- Signing a certification of compliance pertaining to lobbying activities;
- Obtaining a signed certification of compliance from third-party contractors;
- Completing a Standard Form LLL (Disclosure of Lobbying Activities) and submitting to DMTR if non-federal funds have been used to support lobbying activities in connection with a grant from DMTR, and the subrecipient receives federal grants exceeding \$100,000
- Obtaining a completed Standard Form LLL from the contractor and submitting to DMTR if the contractor receives more than \$100,000 in federal funds and use non-federal funds to support lobbying



## 14.5 Charter Rule

Federal transit law prohibits recipients of federal financial assistance from providing charter service, except under certain circumstances. TDOT uses the FTA's definition of charter service. Subrecipients of FTA funds in Tennessee must meet all FTA requirements for provision of charter service.

- Subrecipients that wish to provide charter service must receive advance approval from TDOT. TDOT will review the subrecipient's request based on FTA requirements to determine whether it is allowable.
- Any charter service provided must qualify for one of the exceptions identified by FTA;
- Subrecipients wishing to provide charter service under one of the allowable exceptions to the charter rule must use the FTA's charter website to determine whether any private sector entities are willing and able to provide the requested service.
- Any charter service that is provided by subrecipients must be "incidental." Charter service may not interfere with or detract from regularly scheduled mass transportation service or shorten the life of the equipment or facilities;
- In the event that a subrecipient wishes to provide a type of charter service that requires advance FTA approval (time-sensitive events, events of national or regional significance, and emergency response service), the subrecipient must communicate that intent to DMTR. DMTR will evaluate the request and submit the request to FTA;
- The subrecipient must maintain records of all charter service provided in order to provide this information to TDOT. Charter service reports are due within fourteen (14) days following the end of a fiscal quarter in order to allow TDOT to meet the FTA's reporting deadline of thirty (30) days following the end of a quarter;
- All allowable 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;
- Charter regulations apply to FTA subrecipients even if the vehicle used for charter service has no federal interest, and even if operating, maintenance, and administration costs are cost allocated. Cost allocation methods may be used to segregate costs of charter services; however, the use of cost allocation methods does not relieve a subrecipient of the requirement to comply with all FTA charter regulations.

In the event that TDOT receives a complaint from a private sector charter service provider and the complainant is not familiar with FTA's charter regulations, TDOT would first direct

them to the FTA's charter rule website and suggest that they register as a charter provider. If this does not resolve the problem, staff would investigate the situation and work with the complainant, the subrecipient, TDOT Legal, and FTA to address the situation. TDOT will look to the subrecipient to remedy any claims against the subrecipient in association with charter service in violation of 49 CFR 604. TDOT may bar a subrecipient from receiving further funding if there is a pattern of documented violations.

TDOT reviews compliance with FTA's Charter Rule during periodic on-site compliance reviews.

## **14.6 Prohibition of Exclusive School Transportation**

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.

## **14.7 "Tripper" Service Regulations**

"Tripper service" is regularly scheduled mass transportation service which is open to the public, and which is designed or modified to accommodate the needs of school students and personnel, using various fare collections or subsidy systems. Buses used in tripper service must be clearly marked as open to the public and may not carry designations such as "school bus" or "school special." These buses may stop only at regular service stops. All routes traveled by tripper buses must be within a subrecipient's or operator's regular route service as indicated in their published route schedules.

## Chapter 15. Compliance Monitoring

This chapter discusses the several ways in which TDOT monitors subrecipients for compliance with federal requirements. The nature of monitoring varies somewhat between different types of subrecipients, as shown in the table below.

Type of Subrecipient	Types of Oversight Provided
Rural Transit Agencies	<ul style="list-style-type: none"> <li>• Grant Application Process</li> <li>• Triannual Grantee Discussions</li> <li>• Quarterly Civil Rights Reporting</li> <li>• On-Site Reviews Performed at Least Every Three Years</li> <li>• Policy 2013-007 Monitoring</li> <li>• Reimbursement Procedures</li> <li>• Annual Asset Inventory and Maintenance Oversight</li> <li>• Annual 2 CFR Part 200 Subpart F Audit Requirements</li> <li>• Annual Risk Assessment</li> <li>• Annual Asset Inspections</li> </ul>
Small and Large Urban Transit Agencies	<ul style="list-style-type: none"> <li>• Grant Application Process</li> <li>• Triannual Grantee Discussions</li> <li>• Quarterly Civil Rights Reporting</li> <li>• Triennial Reviews Performed by FTA Every Three Years with TDOT attendance</li> <li>• Policy 2013-007 Monitoring</li> <li>• Reimbursement Procedures</li> <li>• Annual Asset Inventory Reconciliation</li> <li>• Annual 2 CFR Part 200 Subpart F Audit Requirements</li> <li>• Annual Risk Assessment</li> <li>• PTASP, as applicable</li> </ul>
Nonprofit Agencies Serving the Elderly and/or People with Disabilities (5310)	<ul style="list-style-type: none"> <li>• Grant Application Process</li> <li>• Quarterly Status Report</li> <li>• On-Site/Virtual Reviews Performed at Least Every Three Years</li> <li>• Annual Asset Inventory and Maintenance Oversight</li> <li>• Annual 2 CFR Part 200 Subpart F Audit Requirements, if applicable</li> <li>• Annual Risk Assessment</li> <li>• Annual Asset Inspections</li> </ul>
MPO	<ul style="list-style-type: none"> <li>• Policy 2013-007 Monitoring</li> <li>• Reimbursement Procedures</li> <li>• Annual 2 CFR Part 200 Subpart F Audit Requirements</li> <li>• Annual Risk Assessment</li> </ul>

## 15.1 Grant Application Process

TDOT uses the grant application process as a compliance monitoring tool. At the time of application, subrecipients provide numerous documents and certifications that are prerequisites for funding under FTA programs. Application requirements are discussed in detail in Chapter 5, Application for Funding.

## 15.2 Triannual Grantee Discussions

TDOT conducts Triannual Discussions with Rural, Small Urban, and Large Urban transit agencies. The Triannual Discussions include a Grantee Checklist that reviews each agency's activity for the past period and expected activity in the upcoming period, as well as a phone call with the agency to review active contracts for federal and/or state funds.

The Checklist covers such topics as:

- Complaints, litigation, protests
- Policy, staff, leadership changes
- Lobbying services
- Procurement, disposal, and asset use (including Charter)
- Audits or Reviews
- Contract Provisions Oversight
- Anticipation of intergovernmental agreements or contract service
- Capital project milestones and deliverables

## 15.3 Periodic Compliance Reviews

TDOT will adopt a risk-based approach in conducting periodic compliance reviews of its subrecipients. The purpose of reviews is to identify the strengths and weaknesses of transit systems and identify any need for technical assistance to correct any areas of non-compliance. TDOT can employ the services of its technical assistance consultant to assist in conducting the reviews. While TDOT prefers on-site visits, virtual visits may be used for capacity or safety reasons.

The review process will emulate FTA's Triennial Review and State Management Review Process. The process will consist of both a desk review and an on-site visit or equivalent virtual process by the review team. Following each site visit, the review team will issue a report outlining the areas reviewed, compliance deficiencies, actions necessary by the

subrecipient to remedy the deficiency, and the timeframe for implementation of corrective actions. Reviews may include, but are not limited to:

- Program Management
- Project Management
- Selection & Eligibility
- Financial Management & Capacity
- Maintenance & Satisfactory Continuing Control
- Charter and School Bus services
- Transit Asset Management
- Procurement
- Americans with Disabilities Act
- Civil Rights (DBE, EEO, Title VI)
- Drug and Alcohol Program

The review is designed to be used as one part of a technical assistance effort. That is, after completion of a review, technical assistance is provided to the subrecipient to improve deficient areas and to document exemplary performance to share with other transit systems.

### **15.3.1 Site Reviews of 5311 Subrecipients**

TDOT staff will conduct the 5311 compliance site reviews, or utilize on-call consultants when deemed necessary due to staff time constraints and/or capacity or at times deemed necessary by the DMTR Director. Using a monitoring guide developed specifically for TDOT's 5311 subrecipients, the consultants or TDOT staff conduct a desk review and a site visit for each subrecipient at least once every three (3) years. The frequency of compliance site reviews is tied to the level of risk associated with each subrecipient based on prior findings, single audit findings, reviews performed by TDOT Finance's External Audit staff, and annual risk assessments completed by subrecipients. After a site review a draft report is provided to the subrecipient with an opportunity to comment. The final report is then issued and identifies all findings and the timeframe within which corrective actions should be implemented. TDOT offers technical assistance in developing corrective actions through staff and consultant resources.

### **15.3.2 Site Reviews of 5310 Subrecipients**

Using a monitoring field guide developed specifically for TDOT's 5310 subrecipients, TDOT will conduct a desk review and a site visit for each subrecipient at least once every three (3) years. The frequency of compliance site reviews is tied to the level of risk associated with each subrecipient based on prior findings, single audit findings, reviews

performed by TDOT Finance's External Audit staff, and annual risk assessments, as applicable. TDOT develops and provides a draft report to the subrecipient with an opportunity to comment. The final report identifies all findings and the timeframe within which corrective actions should be implemented. TDOT offers technical assistance in developing corrective actions.

### **15.3.3 Site Reviews of Large and Small Urban Subrecipients**

FTA performs triennial reviews of large urban and small urban transit agencies that are Direct Recipients of FTA funds. It is the intent of this State Management Plan for TDOT staff to attend the entrance and/or exit conference for triennial reviews for urban agencies. TDOT obtains a copy of each urban subrecipient's most recent Triennial Review Final Report when urban agencies apply for state operating assistance.

### **15.3.4 Resolution of Findings**

If the compliance review results in findings of noncompliance, the subrecipient will be allowed thirty (30) days from the issue date of the final report to submit a Corrective Action Plan (CAP) to TDOT advising how the subrecipient plans to correct the findings. TDOT staff and the consultant assisting in the compliance review may provide assistance in developing and implementing the CAP. The CAP must include:

- A statement of whether the subrecipient agrees or disagrees with the finding(s)
- A detailed plan of how the subrecipient will correct each individual finding(s)

TDOT will work with the subrecipient to resolve all findings to a closed status. Proof of implementation of any documents, forms, policy changes, reports, accounting tools, time sheets, data collection forms, etc., that ensures the subrecipient has corrected the finding(s) shall be submitted to TDOT, in accordance with the CAP.

### **15.3.5 Repayment of Funds**

When a subrecipient must repay funds, TDOT will issue a Demand Letter to the subrecipient. Payment must be made directly to the Finance Division External Audit Section or the Multimodal Division at the addresses provided below:

External Audit Division Monitoring Issues:

Attention: External Audit Section

TDOT Division of Finance

505 Deaderick Street, Suite 800

Nashville, TN 37243

Multimodal Division Monitoring Issues:

TDOT Multimodal Division  
505 Deaderick Street, Suite 1200  
Nashville, TN 37243

Subrecipients must respond within thirty (30) days from the date of the Demand Letter. Documentation of the repayment must be submitted to the DMTR. The subrecipient's response must indicate how they propose to repay the amount owed, such as through cash transfer, transfer of capital assets, or by withholding of reimbursements under other open grants.

In the event that a subrecipient repays an amount that has already been drawn down from ECHO, TDOT will work with FTA to make any necessary corrections.

### 15.3.6 Termination

The State may terminate any subrecipient's grant if the subrecipient fails to fulfill its obligation under the grant in a timely or proper manner, or if the subrecipient violates any terms of the grant. TDOT has the right to immediately terminate the grant and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the subrecipient shall not be relieved of liability to the state for damages sustained by virtue of any breach of the grant by the subrecipient. While termination of funding will not be exercised without prior written notice to the subrecipient, any consideration of future grant requests may be influenced by the gravity and extent of irregularities causing termination.

## 15.4 Policy 2013-007 Monitoring

Tennessee Department of General Services' Policy 2013-007 establishes the requirements for subrecipient contract monitoring for the State of Tennessee. The policy provides a decentralized statewide department-to-department system for monitoring subrecipient grant allotments to assure programmatic and monetary compliance with the FTA disbursement requirements of cash. The policy is a guide to assist in meeting subrecipient monitoring objectives by defining monitoring requirements and by requiring each state agency to have a well-documented monitoring plan that ensures compliance with applicable state and federal monitoring requirements. Tennessee Code Annotated, 12-4-109(d) indicates that each state department or agency shall be

responsible for the effective management of all service contracts under its purview.

#### **15.4.1 Responsibilities of DMTR**

Under Policy 2013-007, the Division of Multimodal Transportation Resources is responsible for providing oversight for the following compliance areas:

- Activities Allowed and Unallowed
- Civil Rights
- Davis Bacon Act
- Eligibility

#### **15.4.2 Responsibilities of Finance Division External Audit**

Under Policy 2013-007, TDOT's Finance Division is responsible for the statewide oversight of the financial practices of all state contracts issued to FTA program subrecipients and to state program grantees.

### **15.5 Asset Management Oversight**

TDOT maintains ongoing continuing control of assets with an FTA interest by systematic inventory and maintenance reporting requirements for agencies. Additionally, clearly defined procedures are in place for disposal of vehicles, transfer of vehicles, and cases where a vehicle is removed from revenue service. Reporting requirements include the following:

- Regularly scheduled reporting by subrecipients:
  - Annual Asset Inventories
  - Annual Inspection Reports
- Reporting/Documentation Triggered by Specific Actions:
  - Provision of documentation by subrecipients at the time that assets are purchased
  - Provision of documentation by subrecipients prior to asset disposal
  - Provision of documentation by subrecipients subsequent to asset disposal
  - Provision of documentation at the time of accident or loss
  - Provision of documentation by subrecipients when a vehicle is considered out of service
  - Provision of documentation by subrecipients when charter service is requested & performed



## 15.6 Annual 2 CFR Part 200 Subpart F Audit

In compliance with 2 CFR § 200.501 Audit Requirements, subrecipients expending the amount listed in the definition for (a) Audit Required and (b) Single Audit during the subrecipient's fiscal year must submit a single audit to TDOT. Subrecipients not meeting the threshold for a single audit must submit a financial statement in compliance with contractual requirements. The subrecipient's audit or financial statements are due nine (9) months after the close of the reporting period.

When an audit is required, the subrecipient may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit contract between the subrecipient and the licensed independent public accountant shall be on a contract form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of 2 CFR § 200 Subpart F, if applicable, and the *Audit Manual for Governmental Units and Recipients of Grant Funds* published by the Tennessee Comptroller of the Treasury. The subrecipient shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the subrecipient shall be subject to the provisions relating to such fees contained in the prescribed contract form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the State Granting Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.

If a subrecipient (1) fails to submit the required report and documentation before the due date, (2) fails to obtain an extension from TDOT as is appropriate, (3) fails to submit an official extension to TDOT and/or, (4) fails to respond to the TDOT review, appropriate action will be taken. In cases of continued inability or unwillingness to have an audit conducted in accordance with audit requirements, TDOT will consider taking appropriate action to include, but not limited to, measures outlined in 2 CFR § 200.505.

## 15.7 Annual Risk Assessments

TDOT requires risk assessments for subrecipients of FTA funds. The risk assessments are compiled and taken into consideration along with other data to determine the appropriate frequency of compliance reviews. Other considerations include the number and severity of findings identified by TDOT External Audit, the Comptroller of Tennessee,

the 2 CFR Part 200 Subpart F audit requirements, and compliance reviews performed by TDOT staff and/or consultants.

## **15.8 Reimbursement Procedures**

TDOT monitors subrecipients continuously through the routine process by which subrecipients submit invoices for reimbursement. Requests for reimbursement are accompanied by an invoice checklist that addresses numerous areas on compliance. Program Managers at TDOT review the subrecipients' statements of expenditures for correctness as well as the invoice checklist. A Program Manager's Review checklist is also completed to confirm that statements of expenditures have been reviewed and has all the required information prior to approving the payment.