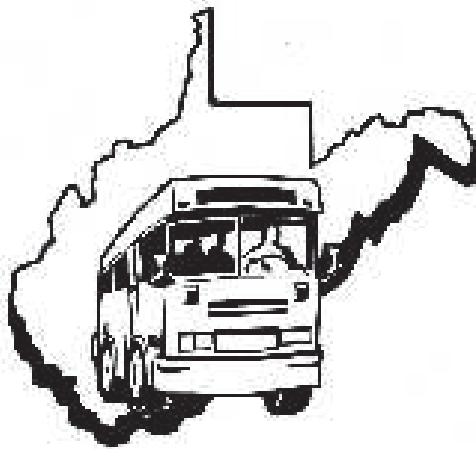


WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

APPLICATION

49 U.S.C. Section 5311 Rural Transportation Program FY 2024



WV DEPARTMENT OF TRANSPORTATION
DIVISION OF MULTIMODAL TRANSPORTATION FACILITIES
PUBLIC TRANSIT
BUILDING 5, ROOM 663
1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WV 25305-0432

*The West Virginia Department of Transportation,
Division of Multimodal Transportation Facilities-Public Transit, as a recipient of federal funds
for programs, has given the assurance
that within daily operations and the delivery of services,
it will not discriminate against any person on the basis of
race, color, national origin, disability, gender,
age or low-income status.*

*If you need this document translated into an alternate language, please contact the
Division of Multimodal Transportation Facilities-Public Transit.*

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CHECKLIST OF APPLICATION REQUIREMENTS

A checklist of required elements to submit with your application is presented on the following page. Please complete and submit the checklist with your application materials.

The following documents must be submitted as a part of your application:

- Special Labor Protection Warranty – Letter and Listing
- General and FTA Certifications and Assurances
- Project Information
- Narrative Description of System
- FY 2023 Operating Budget
- Capital Request

INTRODUCTION

The purpose of this packet is to establish the criteria upon which applicants will be included in the West Virginia Department of Transportation, Division of Multimodal Transportation Facilities – Public Transit (DMTF-PT) FY 2024 Section 5311 program. The DMTF-PT program offers federal financial assistance for public transportation in rural areas by means of a formula grant program administered by the State. Funds made available may be used for operating and capital assistance by operators of public transportation services in nonurbanized areas.

It is the intent of this program that funds made available under Section 5311 augment rather than supplant existing transportation resources. These funds should expand and not take the place of locally contributed funds or existing agency transportation funds.

All grant applications will be reviewed by the Division of Multimodal Transportation Facilities-Public Transit.

**Applications must be submitted by Friday,
March 10, 2023, to:**

WV Department of Transportation
Division of Multimodal Transportation Facilities-Public Transit
Attn. Neal Vance, Section 5311 Program Manager
Bldg. 5, Room 663 / 1900 Kanawha Blvd., E.
Charleston, WV 25305-0432

LOCAL SHARE

Up to fifty percent of a system's operating expenses, minus farebox and other revenue, may be funded with Section 5311 program funds. The remaining operating costs must be funded with non-federal sources of local match.

Examples of non-federal sources of local match includes State or local appropriations, funds provided by regional organizations, and non-operating revenues. Non-cash shares such as donations, volunteered services, or in-kind contributions are eligible to be counted towards the Local match only if the value of each is formally documented and supported.

Non-operating revenues are public grants and income generated from other activities of the Local agency not related to general public transportation such as airport operations, interstate carriers, ticket sales, charter profit and advertising profit.

Charter profit may be used as a part of the local share as long as charter operation expenses and income are carried in a separate account and all charter operations are conducted in accordance with 49 CFR, Part 604. Charter deficit is not eligible for assistance under this grant program. If your agency uses charter profit as a match, it will be your responsibility to determine that the charter rates do provide for a profit.

Advertising profit is revenue earned from displaying advertising materials on transit system vehicles and property. The amount shown as profit should be net of any fees paid to advertising agencies that place the advertisement with the transit system.

The program allows funds received by recipients pursuant to service agreements with a State or local social service agency or a private social service organization to be considered as local match even though the original source of such funds may have been another (non-U.S. DOT) federal program. This provision, however, applies only to

private, nonprofit organizations. In addition, there may be certain cases where federally appropriated funds are specifically permitted to be treated as local funds for the purposes of matching share for other federal programs. The degree to which a recipient demonstrates local financial commitment to the project may be used by the State as a rating factor in its discretionary allocation decisions.

Title III B funds are among the unrestricted federal funds eligible as match. Other FTA funds cannot be used as match.

If you have any questions as to whether or not your agency has any eligible unrestricted federal funds or in-kind contributions, please contact the DMTF-Public Transit.

MILESTONES

February 10, 2023	APPLICATIONS AVAILABLE
March 10, 2023	APPLICATIONS DUE
March-April 2023	APPLICATIONS REVIEWED FOR COMPLIANCE & COMPLETENESS
March 31, 2023	DOCUMENTATION OF LOCAL MATCH DUE
May 26, 2023	SIGNED CONTRACTS DUE
July 1, 2023	FY 2024 SECTION 5311 PROGRAM YEAR BEGINS

APPLICATION FORMAT

The application has been assembled into a format which the DMTF-Public Transit hopes will reduce the amount of preparation time and aid in the fair evaluation of each applicant. The Division has provided the application questions, assurances/certifications, and project budget information in an electronic format – Microsoft Word and Excel. You are to respond to all the questions and complete the assurances/certifications and project budget information, save the data, print a copy and **be sure to sign** on the pages where indicated. Also, include the Checklist of Application Requirements.

The staff of the DMTF-Public Transit is available to answer any questions concerning this application packet.

GENERAL REQUIREMENTS FOR ELIGIBILITY

In accordance with FTA C 9040.1G, eligible recipients may include "state agencies, local public bodies, nonprofit organizations, Indian Tribes and groups, and operators of public transportation services."

The term "public transportation" is defined as "any transportation by bus or rail or other conveyance, either publicly or privately owned, which provides to the public, general or special service on a regular and continuing basis." "Public transportation does not include the following: (1) school bus, charter, or sightseeing service; (2) exclusive ride taxi service; (3) and service to individuals or groups which exclude use by the general public." Additionally, the applicant's vehicles must be clearly marked in a manner which identifies their availability for public transportation service.

In order to meet the general requirements for eligibility, there are various statements and assurances that must be signed by the President, Chairman of the Board, or comparable authorized official of your organization.

SPECIAL LABOR PROTECTION WARRANTY

Section 5333(b) calls for the protection of the interests of employees affected by federal assistance, including such provisions as ensuring rights, privileges and benefits, protection against a worsening of employee's positions with respect to their employment; rehiring priority for those laid off; and retraining.

The Special Labor Protection Warranty will become a part of all Section 5311 funding assistance contracts between you and the State of West Virginia (DMTF-Public Transit). Because of the amount of time involved in filing for a warranty, the DMTF-Public Transit will not apply for any waivers; however, if your organization feels that it has extenuating circumstances and desires a waiver, contact the DMTF-Public Transit in writing.

Each applicant must make assurances (letter of acceptance) to the DMTF-Public Transit that all terms and conditions of the warranty will be met. These assurances will be maintained on file by the DMTF-Public Transit as required by the U.S. Department of Labor. If a union represents your transit property, the organization may become part of the warranty by completing the sample labor organization letter.

Following this information is a copy of the Special Labor Protection Warranty. Review this along with your board of directors, advisory council and attorney. Please then sign the letter(s) and complete the listing of recipients, eligible transportation providers and labor organizations, in your service area. If your organization desires further information on the warranty, please contact this office.

LABOR PROTECTION WARRANTY FOR SMALL URBAN AND RURAL PROGRAM

A. General Application

The DMTF-Public Transit agrees that, in the absence of waiver by the Department of Labor, the terms and conditions of this warranty, as set forth below, shall apply for the protection of the transportation related employees of any employer providing transportation service assisted by the Project (Authority), and the transportation related employees of any other surface area of the project.

The DMTF-Public Transit shall provide to the Department of Labor and maintain at all times during the Project an accurate up-to-date listing of all existing transportation providers which are eligible Recipients of transportation assistance funded by the Project, in the transportation service area of the Project, and any labor organizations representing the employees of such providers.

Certification by the DMTF-Public Transit to the Department of Labor that the Authority has indicated in writing acceptance of the terms and conditions of the warranty arrangement will be sufficient to permit the flow of 49 U.S.C. Section 5311 funding in the absence of a finding of noncompliance by the Department of Labor.

B. Standard Terms and Conditions

(1) The Project shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees of the Authority and of any other surface public transportation provider in the transportation service area of the Project. It shall be an obligation of the Authority and any other legally responsible party designated by the DMTF-Public Transit to assure that any and all transportation services assisted by the Project are contracted for and operated in such a manner that they do not impair the rights and interests of affected employees. The term "Project" as used herein, shall not be limited to the particular facility, service, or operation assisted by Federal funds, but shall include any changes, whether organizational, operational, technological, or otherwise, which are a result of the assistance provided. The phrase "as a result of the project," shall when used in this arrangement, include events related to the Project occurring in anticipation of, during, and subsequent to the Project and any program of efficiencies or economies related thereto; provided, however, that volume rises and falls of business or changes in volume and character of employment brought about by causes other than the Project (including any economies or efficiencies unrelated to the Project) are not within the purview of this arrangement.

An employee covered by this arrangement, who is not dismissed, displaced or otherwise worsened in his position with regard to his employment as a result of the Project, but who is dismissed, displaced, or otherwise worsened solely because of the total or partial termination of the Project, discontinuance of Project services, or exhaustion of Project funding shall not be deemed eligible for a dismissal or displacement allowance within the meaning of paragraphs (6) and (7) of the Model agreement or applicable provisions of substitute comparable arrangements.

(2) (a) Where employees of an Authority are represented for collective bargaining purposes, all Project services provided by that Authority shall be provided under and in accordance with any collective bargaining agreement applicable to such employees which is then in effect.

(2) (b) The Authority shall provide to all affected employees sixty (60) days' notice of intended actions which may result in displacements or dismissals or rearrangements of the working forces. In the case of employees represented by a union, such notice shall be provided by certified mail through their representatives. The notice shall contain a full and adequate statement of the proposed changes, and an estimate of the number of employees affected by the intended changes, and the number and classifications of any jobs in the Authority's employment available to be filled by such affected employees.

(2) (c) The procedures of this subparagraph shall apply to cases where notices involve employees' represented by a union for collective bargaining purposes. At the request of either the Authority or the representatives of such employees negotiations for the purposes of reaching agreement with respect to the application of the terms and conditions of this arrangement is reached within twenty (20) days from the commencement of negotiations, any party to the dispute may submit the matter to dispute settlement procedures in accordance with paragraph (4) of this warranty. The foregoing procedures shall be complied with and carried out prior to the institution of the intended action.

(3) For the purposes of providing the statutory required protections including those specifically mandated by Section 13(c) of the Act¹, the DMTF-Public Transit will assure as a condition of the release of funds that the Authority agrees to be bound by the terms and conditions of the National (Model) Section 5333(b) agreement executed July 23, 1975, identified below², therefore, if approved by the Secretary of Labor and certified for inclusion in these conditions.

(4) Any dispute or controversy arising regarding the application, interpretation, or enforcement of any of the provisions of this arrangement which cannot be settled by and between the parties at interest within thirty (30) days after the dispute or controversy first arises, may be referred by any such party to any final and binding disputes settlement procedure acceptable to the parties, or in the event they cannot agree upon such procedure, to the Department of Labor or an impartial third party designated by the Department of Labor for final and binding determination. The compensation and expenses of the impartial third party, and any other jointly incurred expenses, shall be borne equally by the parties to the proceeding and all other expenses shall be paid by the party incurring them. In the event of any dispute as to whether or not a particular employee was affected by the Project, it shall be his obligation to identify the Project and specify the pertinent facts of the Project relied

¹ Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (2) the continuation of collective bargaining rights; (3) the protection of individual employees against a worsening of their positions with respect to their employment; (4) assurances of employment to employees of acquired mass transportation systems and priority of reemployment of employees terminated or laid off; and (5) paid training and retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to Section 5(2)(f) of the Act of February 4, 1987 (24 Stat. 379), as amended.

² For purposes of this warranty arrangement, paragraphs (1); (2); (5); (15); (22); (23); (24); (26); (27); (28); and (29) of the Model Section 13c Agreement, executed July 23, 1975 are to be omitted.

upon. It shall then be the burden of either the Authority or other party legally responsible for the application of these conditions to prove that factors other than the Project affected the employees. The claiming employee shall prevail if it is established that the Project had an effect upon the employee even if other factors may also have affected the employee.

(5) The Authority or other legally responsible party designated by the DMTF-Public Transit will be financially responsible for the application of these conditions and will make the necessary arrangements so that any employee covered by these arrangements, or the union representative of such employee, may file claim of violation of these arrangements with the Authority within sixty (60) days of the date he is terminated or laid off as a result of the Project, or within eighteen (18) months of the date his position with respect to his employment is otherwise worsened as a result of the Project. In the latter case, if the events giving rise to the claim have occurred over an extended period, the 18month limitation shall be measured from the last such event. No benefits shall be payable for any period prior to six (6) months from the date of the filing of any claim.

(6) Nothing in this arrangement shall be construed as depriving any employee of any rights or benefits which such employee may have under existing employment or collective bargaining agreements, nor shall this arrangement be deemed a waiver of any rights of any union or of any represented employee derived from any other agreement or provision of federal, state or local law.

(7) In the event any employee covered by these arrangements is terminated or laid off as a result of the Project, he shall be granted priority of employment or reemployment to fill any vacant position within the control of the Authority for which he is, or by training or retraining within a reasonable period, can become qualified. In the event training or retraining is required by such employment or reemployment, the Authority or other legally responsible party designated by the DMTF-Public Transit shall provide for such training or retraining at no cost to the employee.

(8) The Authority will post, in a prominent and accessible place, a notice stating that the Authority has received federal assistance under the Federal Transit Act and has agreed to comply with the provisions of Section 5333(b) of the U.S. Code. This notice shall also specify the terms and conditions set forth herein for the protection of employees. The Authority shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the proper application, administration, and enforcement of these arrangements and to the proper determination of any claims arising thereunder.

(9) Any labor organization which is the collective bargaining representative of employees covered by these arrangements, may become a party to these arrangements by serving written notice of its desire to do so upon the Authority and the Department of Labor. In the event of any disagreement that such labor organization represents covered employees, or is otherwise eligible to become a party to these arrangements, as applied to the Project, the dispute as to whether such organization shall participate shall be determined by the Secretary of Labor.

(10) In the event the Project is approved for assistance under the Act, the foregoing terms and conditions shall be made part of the contract of assistance between the federal government and the DMTF-Public Transit or Authority of federal funds; provided, however, that this arrangement shall not merge into the contract of assistance, but shall be independently binding and enforceable by and upon the parties thereto, and by any covered employee or his representative, in accordance with its terms, nor shall any other employee protective agreement merge into this arrangement, but each shall be independently binding and enforceable by and upon the parties thereto, in accordance with its terms.

C. WAIVER

As a part of the grant approval process, either the Authority or other legally responsible party designated by the DMTF-Public Transit may in writing seek from the Secretary of Labor a waiver of the statutory required protections. The Secretary will waive these protections in cases, where at the time of the requested waiver, the Secretary determines that there are no employees of the Authority or of any other surface public transportation providers in the transportation service area who could be potentially affected by the Project. A 30day notice of proposed waiver will be given by the Department of Labor and in the absence of timely objection, the waiver will become final at the end of the 30day notice period. In the event of timely objection, the Department of Labor will review the matter and determine whether a waiver shall be granted. In the absence of waiver, these protections shall apply to the Project.

SAMPLE

**Letter of Acceptance of the Terms and Conditions of the
Special Labor Protection Warranty**

**TO BE TYPED ON APPLICANT'S LETTERHEAD
AND MUST BE SUBMITTED
WITH SECTION 5311 APPLICATION**

DATE

William C. Robinson, Executive Director
Division of Multimodal Transportation Facilities-Public Transit
Building 5, Room 663
1900 Kanawha Blvd., E.
Charleston, West Virginia 253050432

Dear Director:

This will certify that the applicant, (Name of Applicant) hereby accepts the terms and conditions of the "Special Labor Protection Warranty" for Application to the Small Urban and Rural Program.

Sincerely,

(SIGNED BY APPLICANT)

Attachment

**TO BE COMPLETED AND
SUBMITTED WITH SECTION 5311 APPLICATION**

**LISTING OF
RECIPIENT, ELIGIBLE TRANSPORTATION
PROVIDERS AND LABOR REPRESENTATION FOR
SPECIAL LABOR PROTECTION WARRANTY**

Project	Recipient	Other Surface Public Transit Providers	Union Representation of Employees (if any)

PROJECT BUDGET

The Project Budget is composed of both operating and non-operating expenses. (See Glossary of Terms for definitions). It is imperative to only use the forms provided. **Please note it is not mandatory for your organization to allocate at least 1% of its budget toward marketing; however, it is encouraged.**

Furthermore, the DMTF-Public Transit strongly encourages each applicant to review the Budget Definitions and the forms before filling out the FY 2024 request. Merely adding a fixed percentage to your current budget (FY 2023) will not be considered sufficient budget preparation. Beginning this year, your agency will be asked to make a budget presentation (likely virtual) to explain your funding request and possibly to justify specific line items.

Specifically, what is actually being funded under the operating portion of the program is the net operating cost, which is the deficit remaining after direct operating revenues from fares, package delivery, and contra-expenses are subtracted from eligible expenses. If direct operating revenues equal or exceed eligible operating expenses, net operating cost is zero (0).

Contra-expenses are revenue items which directly offset transit expenses, and which are therefore eliminated from the deficits eligible for Section 5311 assistance. Five common types of contra-expenses include the following:

- a. Interest income earned on working capital.
- b. Proceeds from the sale of equipment in excess of the depreciated value. (Private operators only)
- c. Cash discounts and refunds that directly offset accrued expenses.
- d. Insurance claims and reimbursements which directly offset accrued expenses.
- e. State fuel tax rebates to public operators.

All eligible expenses incurred by the transit property that are not considered operating would be classified as non-operating and eligible for the 50/50 match. Examples of these expenses would be marketing costs, staff salaries, rent, office supplies, etc.

2 CFR Part 225 specifically describes ineligible expenses for reimbursement. Some of the more common ineligible items include:

- a. Entertainment (e.g., golf games, sporting events, in-room movies, etc.)
- b. Fines and Penalties, including finance charges for late payments.
- c. Charitable Donations
- d. Interest expense on long-term borrowing and debt retirement.
- e. Advisory councils unless prior approval has been granted.
- f. For private mass transportation operators, provision for Federal, State, or local income taxes.

- g. Indirect transit-related functions or activities of regional or local entities performed as a normal consequence of general public administration (e.g., expenses of a City Council in considering transit matters, expenses of an MPO in programming formula funds, etc.)
- h. Depreciation accrued by public operators, depreciation on facilities or equipment purchased with public (e.g., Federal, State, Local) capital assistance, depreciation of an intangible asset, and/or depreciation in excess of the rate otherwise used for income purposes.
- i. Expenses for contingencies or capital assistance including contributions to a capital reserve account or fund.

If your organization has any questions as to whether an expense item is eligible or ineligible, please contact the DMTF-Public Transit.

For FY 2024, overall budget requests showing an increase from FY2023 must include a detailed explanation regarding the extenuating circumstances. These requests will be reviewed on a case-by-case basis.

For those agencies wanting to use in-kind services and/or unrestricted federal funds for part of the local match, contact the DMTF-Public Transit for special instructions.

NOTE: Please round all budget figures to the nearest dollar and read all budget definitions before completing any budget form.

DOCUMENTATION OF LOCAL MATCH

All applicants are required to provide documentation of local funds to be used to match the federal Section 5311 funds. Documentation may consist of but is not limited to written statements from county commissions, State agencies, city managers, Mayors, town councils, organizations, accounting firms and financial institutions. **All documentation should indicate the date that funds will be made available to your system.**

If available at the time of submission of your application, documentation of local funds should be provided. Match documentation should be inserted immediately after the Sources of Funds page.

If documentation of local funds is not available at the **time of submission, such documentation must be submitted to the DMTF-Public Transit on or before March 31, 2023.**

APPLICATION QUESTIONS

Applicant Information

1. Name and address:	
2. Name, title, telephone, email address of applicant contacts (<i>minimum of two</i>):	

Service Area Information

1. Counties and towns served	
2. Service area population	
Total	
Persons with disabilities	
Elderly persons	

Service Characteristics

<p><i>Definitions:</i></p> <p>Demand-Response: Any system of transporting individuals, including but not limited to providing designated public transportation service or specified public transportation service by vehicle at the request of the user.</p> <p>Fixed-Route: A system of transporting designated or specified public transportation services along a prescribed route according to a fixed schedule without an advanced request by a passenger to ensure that service is provided.</p> <p>Route Deviation: Fixed-route service that upon request allows deviations from the regular route to provide direct transportation access to passengers within the vicinity of the prescribed route.</p> <p>ADA Complementary Paratransit: Origin-to-destination demand-response service required for persons who are unable to use fixed-route service.</p>	
Types of service provided. <i>For fixed-route and route deviation services, please list the number of routes.</i>	
Days and hours of operation	
Fare structure <i>(Base, student, elderly, disabled, zone charges, other)</i>	
Description of other transportation services provided (NEMT, contracts). For NEMT service, please describe the service area, cost recovery ratio, # of passengers per month, etc.	
How do you meet the transportation needs of the general public?	
How do you meet transportation needs of persons with disabilities?	
How do you meet the transportation needs of persons who are transportation disadvantaged?	
Do you have any planned service changes for the next grant application year?	

Planned service changes for the next five years. Include details on how you will finance the transportation program.	
Do you foresee potential significant impacts to your service needs, such as relocation of a hospital, new business, or closing of a plant?	

Coordination

Wherever possible, Section 5311 recipients should coordinate with other transportation providers, public, private and nonprofit. Benefits that can be obtained through coordinated services are the elimination of duplicate transportation services, better use of equipment and facilities, increased service availability and the ability to reduce transportation and maintenance costs. Your organization is required to coordinate wherever possible, the planning and operation of your service with existing transportation providers both public and private.	
1. Please list ALL transportation providers, both private and public, in your service area.	
2. Describe any coordination activities initiated by your system and/or any other agency during this fiscal year.	
3. What plans does your system have to coordinate services in the next fiscal year?	
4. Did your system participate in the local public meeting held in 2018-19 to update the Regional Coordinated Public Transit-Human Service Coordination Transportation Plan? When was the public meeting held? If you did not attend this mandatory meeting, please explain why.	

Marketing

<p>Do you intend to spend part of your system's annual operating budget towards marketing efforts for FY2024?</p> <p>Specifically describe your current marketing efforts to retain and attract new riders (Such as distributed materials at local events, revamped website; purchased radio commercials, social media applications, etc.)</p>	
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Title VI- *Make sure you are keeping track of all outreach efforts to document Title VI compliance.*

<p>1. List any active lawsuits or complaints naming the applicant which allege discrimination on the basis of race, color, or natural origin with respect to service or other transit benefits. Include:</p> <ul style="list-style-type: none"> • the date the lawsuit or complaint was filed • a summary of the allegation • the status of the lawsuit or complaint, including whether the parties to a lawsuit have entered into a consent decrees. <p>If none, please state so. Note: please do not include lawsuits or complaints from your own employees or personnel.</p>	
<p>2. A description of all pending applications for financial assistance and all financial assistance currently provided by other federal agencies. If none, please state so.</p>	
<p>3. A summary of all civil rights compliance review activities conducted in the last three years. The summary should include: the purpose or reason for the review; the name of the agency or organization that performed the review; a summary of the findings and recommendations of the review; and a report on the status and/or disposition of such findings and recommendations. If none, please state so. Do not list DPT compliance reviews.</p>	

Number of Employees

1. Total full-time	
2. Full-time drivers	
3. Full-time operations employees (dispatchers, mechanics, supervisors)	
4. Full-time administrative employees	
5. Total part-time employees	
6. Part-time drivers	
7. Other part-time operation employees	
8. Part-time administrative employees	
9. Volunteers (working for the system without pay)	

Raises and Once-A-Year Increments (such as Longevity Raises)

This section is to be completed by all Section 5311 applicants. The purpose of this question is to determine whether you were able to offer pay raises to your employees during FY 2023 or FY 2022.

	FY 2023 Salary Increase			FY 2023 Salary Increment		
	Yes	Indicate amount or %	No	Yes	Indicate amount or %	No
Manager						
Admin. Staff						
Mechanics						
Drivers						
Dispatcher						

	FY 2022 Salary Increase			FY 2022 Salary Increment		
	Yes	Indicate amount or %	No	Yes	Indicate amount or %	No
Manager						
Admin. Staff						
Mechanics						
Drivers						
Dispatcher						

Performance Measures

<p>Performance standards will be used by the Division as a tool for measuring the effectiveness and efficiency of your system's rural public transportation services. The rating structure is also being used as a basis for offering technical assistance. The program is set up such that services can be rated as "Successful", "Acceptable" or "Needs Review" based on how a system performs in each of the operating measures. In addition, these standards will be utilized in determining whether new services requested by systems should be funded based on their potential for success. The following standards apply to demand response and rural route services and all Section 5311 recipients:</p>						
Measure	Successful	Acceptable	Needs Review			
Operating Cost per Hour	<\$30	\$30-\$40	>\$40			
Operating Cost per Mile	<\$1.80	\$1.80-\$3.50	>\$3.50			
Operating Cost per Passenger Trip	<\$9.00	\$9.00-\$13.00	>\$13.00			
Farebox Recovery Ratio	>15%	12%-14%	<12%			
Passenger Trips per Mile	>0.35	0.10-0.35	<0.10			
Passenger Trips per Hour	>4	2.5 - 4	<2.5			
<p>1. Please complete the chart for the past three fiscal years (FYs 2018-2020). Refer to the year-end Project Expenditure reports to obtain these measures. Then indicate in the appropriate column whether the measure is Successful (S), Acceptable (A) or Needs Review (N).</p>						
Measure	FY 2020	S/A/N	FY 2021	S/A/N	FY 2022	S/A/N
Operating Cost per Hour						
Operating Cost per Mile						
Operating Cost per Passenger Trip						
Farebox Recovery Ratio						
Passenger Trips per Mile						
Passenger Trips per Hour						
<p>2. What steps are you taking to bring measures that "Needs Review" to the "Acceptable" level or the "Acceptable" level to the "Successful" level? <i>(Answer for every measure that has fallen into these two categories for two of the last three yrs.)</i></p>						

Maintenance of Effort

When allocating funds, the Division may take into account maintenance of effort. To maintain effort, the amount of local contributions as applied to eligible operating expenses in the project year should not be less than the average amount of local contributions from the two preceding fiscal years. Maintenance of effort may be said to require that the level of effort in the project year be at least equal to the average level of effort in the two preceding fiscal years. For the purpose of maintenance of effort, local contributions are defined as those funds received from organizations in the applicant’s service area, such as county commissions, city councils and other local donors.

1. FY2022 Local Contribution	
2. FY2023 Local Contribution	
3. Total Contribution FYs 2022 and 2023	
4. Average Annual Contribution FYs 2022 and 2023	
5. Proposed FY2024 Local Contribution <i>(In order to maintain effort, this amount must be equal to or greater than the average contribution for the two preceding fiscal years.)</i>	

Capital Planning

The Division is developing its FY 2024 capital budget.

- Vehicle replacement is the top priority. Vehicles must be within 2,000 miles of their useful life to be submitted. Vehicles with the oldest number of miles and years will be replaced first.
- If you are requesting a replacement vehicle, indicate the last five numbers of the VEIN, current mileage, and type of vehicle you are requesting in the format listed below. You must sell the vehicle you are requesting a replacement for. If you do not plan on selling the equipment, this is an expansion request, and you must indicate this. You must justify all expansion requests.

1. Capital funding is available through the Section 5311 program at an 80 percent Federal/20 percent local matching ratio. Projects eligible for capital funding include:

- Transit vehicles
- Communications equipment
- Bus stop shelters, with or without benches
- Building
- Other capital needs

So that we can better plan and budget your anticipated capital needs and/or requests for FY2021, please complete the table below. Please only list items that are essential. For buses, identify the type as follows:

- Plain Mini van
- Low-floor mini-van, ramp
- Converted van (old Braun's)
- 18-passenger cutaway
- Champion-like vehicle
- Narrow Body vehicle
- Transit Van
- GCII-like vehicle
- Shop/support vehicle

Note whether the bus will be for replacement or expansion. For replacement vehicles, include the VEIN of the vehicle to be replaced. If requesting communication equipment, please also indicate if it is a replacement of older units or an addition.

If you are requesting a different type of vehicle for replacement such as replacing a mini-van with an 18-passenger cutaway, you should indicate this.

2018 low floor mini
 VEIN last five numbers 12345
 Mileage as of February 1, 2020 - 100,000
 Replace with 18 passenger cutaway.

For expansion vehicles, please provide the type and a justification. You should also indicate the availability of local match.

Please note that the Division may not have the resources to fund all capital requests. The Division may also decide to give priority to certain items, such as replacement vehicles, over other items like expansion vehicles.

Fiscal Year	Capital Items
FY2024	
FY2025	
FY2026	

2. Please explain why this equipment is essential for the operation of your transit services?	
---	--

Miscellaneous

1. Do you foresee any potential budget impacts due to any current or proposed federal/state laws?	
2. What effects do you anticipate the potential changes in the NEMT reimbursement program will have on your service – such as the ability to generate match money if you don't participate with the broker or trips decrease? What steps will you need to take in order to stay within budget?	

Drug and Alcohol Testing Program

1. Please name your agency's Drug and Alcohol Program Manager (DAPM) and back-up person.	
2. Do you have on file the current qualifications of all contractors (MRO, SAPs, BATs, and any other collection personnel)? This should be done annually, and employees provided notification of any changes with the MRO or SAP.	

Funding Justification

1. With projections of limited future funding, please justify why you should continue to receive federal and state transit assistance.	
--	--

GENERAL CERTIFICATIONS AND ASSURANCES

The following is a list of forms that must be included with your application. Please complete information where specified.

Ineligible Expense Assurance

(Must be signed by all active Board members and the manager/project director)

I, **(Please List Individual Names)** of **(Name of Applicant)** hereby certify that it is fully understood that the following types of expenses are ineligible for reimbursement under the 49 U.S.C. Section 5311 program.

- a. Entertainment
- b. Fines and penalties
- c. Charitable donations
- d. Interest expense on long-term borrowing and debt retirement
- e. Advisory councils unless prior DPT approval has been granted
- f. For private mass transportation operators, provision of federal, State and local income taxes
- g. Indirect transit-related functions or activities of regional or local entities performs as a normal consequence of general public administration (e.g. expenses of a City Council or County Commission in considering transit matters)
- h. Depreciation accrued by public operators, depreciation of facilities or equipment purchased with public (e.g., federal, State, local) capital assistance, depreciation of an intangible asset and/or depreciation in excess of the rate otherwise used for income purposes
- i. Expense for contingencies or capital assistance including contributions to a capital reserve account or fund

DATE: _____	_____ (President of Board)
DATE: _____	_____ (Transit System Manager/Project Director)
DATE: _____	_____ (Transit System Financial Officer)
DATE: _____	_____ (Board Member)
DATE: _____	_____ (Board Member)
DATE: _____	_____ (Board Member)
DATE: _____	_____ (Board Member)
DATE: _____	_____ (Board Member)
DATE: _____	_____ (Board Member)
DATE: _____	_____ (Board Member)
DATE: _____	_____ (Board Member)
DATE: _____	_____ (Board Member)
DATE: _____	_____ (Board Member)
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DATE: _____	_____ (Board Member)
DATE: _____	_____ (Board Member)
DATE: _____	_____ (Board Member)
DATE: _____	_____ (Board Member)
DATE: _____	_____ (Board Member)
DATE: _____	_____ (Board Member)

THIS FORM MUST BE FILED FOR EACH AND EVERY BOARD MEMBER

**ANNUAL WRITTEN STATEMENT OF ACKNOWLEDGMENT
OF**

§8-27-22 CONFLICT OF INTEREST

I, **(Please type name)** of **(Home Address)** serving as a board member of the **(Name of Transit Authority)** do hereby acknowledge and agree to abide by §8-27-22 Conflict of Interest as stated below.

No member of any authority, nor any of its officers, employees, agents, or consultants, shall have any interest in any firm, partnership, corporation, company, association or joint-stock association engaged in the business of providing public transportation in the area encompassed by the authority, or in the manufacture, sale, or lease of passenger transportation equipment or facilities. No member of any authority, nor any of its officers, employees, agents or consultants shall contract with the authority or be interested in the sale of property, either real or personal, to such authority. The term "agents" as used in this section shall not be deemed for the purposes of this section to include any persons or authorities which lease from or contact for superintendence and management services with any authority for the administration, maintenance, repair or operation of any system. (1968, c.62; 1969, c.86.)

(Signature of Board Member)

Subscribed and sworn to before me within my said County and State this _____ day of

_____, _____.

(Notary Public)

County of: _____

State of: _____

My Commission Expires: _____

FTA CERTIFICATIONS AND ASSURANCES

The following is a list of forms that must be included with your application. Please complete information where specified. The individual forms follow.

AUTHORIZING RESOLUTION

I, **(Name of Certifying Officer)**, do hereby certify that I am duly qualified and acting **(Title of Certifying Officer)** of the **(Name of Applicant)** and as such I am the Keeper of the seal, records and files of the **(Name of Applicant)**.

I do further certify that as regularly constituted meeting of the **(Board of Directors, Executive Committee, etc.)** of the **(Name of Applicant)** held on the **(day)** of **(month)**, **(year)** at which a quorum of all of the members were present and voting, a certain Resolution was adopted in full accordance and conformity with the (choose one of the following)

_____ Bylaws of the Applicant

_____ Statutes of the State of West Virginia

As made and provided, and that the following is a complete and true copy of the pertinent provisions of Resolution:

“BE IT RESOLVED by the **(Governing Body)** of the **(Name of Applicant)**

1. That an application be made to the West Virginia DMTF-Public Transit for a federal grant under the 49 U. S.C. Section 5311 Program to acquire funds to provide **(Brief Description of Project)**
2. That **(Name and/or Title)** of the **(Name of Applicant)** is hereby authorized and directed to execute and file on behalf of the **(Name of Applicant)** such applications; and that **(Name of Authorized Individual)** is authorized to furnish such additional information as may reasonably be required by the Federal Transit Administration or the West Virginia DMTF-Public Transit in connection with the aforesaid application for said grant.

I further certify that the original of the complete said Resolution is on file in the records of the **(Name of Applicant)** in my custody.

I do further certify that the foregoing Resolution remains in full force and effect and has not been rescinded, amended or altered in any manner since the date of its adoption.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and the seal (if appropriate), of the **(Name of Applicant)**, this **(day)** of **(month)**, **(year)**.

(Signature)

(Title)

**Assurance Concerning Nondiscrimination on the
Basis of Disability in Federally-Assisted Programs and
Activities Receiving or Benefiting from
Federal Financial Assistance**

**Implementing the Rehabilitation Act of 1973, as amended, and the
Americans with Disabilities Act of 1990, as amended**

(Federal Transit Administration)

The **Applicant** AGREES THAT, as required by U.S. DOT regulations, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” at 49 CFR 27.9, the **Applicant** assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Applicant assures that project implementation and operations so assisted will comply with all applicable requirements of U. S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C.794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*, and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any other applicable Federal laws that may be enacted or Federal regulations that may be promulgated.

Demand Responsive Service Certification

As required by U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” at 49 CFR 37.77(d), the **Applicant** certifies that its demand responsive service offered to persons with disabilities, including persons who use wheelchairs, is equivalent to the level and quality of service offered to persons without disabilities. When the **Applicant’s** service is viewed in its entirety, the Applicant’s service for persons with disabilities is provided in the most integrated setting feasible and is equivalent with respect to:

- (1) Response time;
- (2) Fares;
- (3) Geographic service area;
- (4) Hours and days of service;
- (5) Restrictions on trip purpose;
- (6) Availability of information and reservation capability; and
- (7) Constraints on capacity or service availability

In accordance with 49 CFR 37.77, public entities operating demand responsive systems for the general public which receive financial assistance under 49 U.S.C Section 5310 and 49 U. S. C. Section 5311 of the Federal Transit Act must file this certification with the appropriate state program office. Such public entities receiving FTA funds under any other section of the FTA Act must file the certification with the appropriate FTA regional office. This certification is valid for no longer than one year from its date of filing.

Charter Service Agreement

An Applicant seeking Federal assistance authorized under 49 U.S.C. chapter 43 (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, to acquire or operate any public transportation equipment or facilities is required to enter into the follow Charter Service Agreement. FTA may not provide Federal

assistance authorized under 49 U.S.C. chapter 53 (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, for such projects until the Applicant enters into this Charter Service Agreement.

- A. As required by 49 U.S.C. 5323(d) and (g) and FTA regulations at 49 CFR 604.4, the **Applicant** understands and agrees that it and each third party contractor, or other participant in the project at any tier may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 504.2) or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "Charter Service," 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.
- B. The **Applicant** understands and agrees that:
- (1) The requirements of FTA regulations, "Charter Service," 49 CFR part 604, will apply to any charter service it or its lessees, third party contractors, or other participants in the project provide,
 - (2) The definitions of FTA regulations, "Charter Service," 49 CFR part 604, will apply to this Charter Service Agreement, and
 - (3) A pattern of violations of this Charter Service Agreement may require corrective measures and imposition of remedies, including barring the **Applicant**, lessee, third party contractor, or other participant in the project that has engaged in that pattern of violations from receiving FTA financial assistance, or withholding an amount of Federal assistance as set forth in FTA regulations, "Charter Service," 49 CFR part 604, Appendix D.

Certification of Compliance with Disadvantaged Business Enterprise (DBE) Requirements

In connection with the performance of any project resulting from this application, the applicant will use its best efforts to insure that DBEs participate in the maximum extent feasible in the performance of contracts financed in whole or part by the U.S. Department of Transportation.

Certification of Compliance with Title VI of the Civil Rights Act of 1964

The **Applicant** hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by the U. S. Department of Transportation, to the end that, in accordance with Title VI of the Act, no person in the United States shall, on the grounds of race, color, sex or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient received federal financial assistance from the Department under federal urban mass transportation program; and **HEREBY GIVE ASSURANCE THAT** it will immediately take any measures to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of federal financial assistance extended the recipient by the Department under federal urban mass transportation programs, this certification shall obligate the Recipient, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided this certification shall obligate the Recipient for the period during which it retains ownership or possession of the property. In all other cases, this certification shall obligate the Recipient for the period during which the federal financial assistance is extended to it by the Department under federal urban mass transportation programs.

Certification of Compliance with Private Enterprise Participation Requirements

The **Applicant** hereby certifies that it will follow the requirements outlined in the 49 U.S.C. Section 5311 Private Enterprise Participation Procedures Manual (see Appendix III) and shall practice good faith efforts to promote the participation of the private sector in the planning and provision of mass transit services both as an independent private activity and, whenever feasible, through competitive contractual arrangements with public bodies.

Litigation Certification

The **Applicant** hereby certifies that to the best of its knowledge there is no litigation pending or threatened which might affect the performance of this project. If unable to certify, please state why.

Public Hearing

An Applicant seeking Federal assistance authorized by 49 U.S.C. chapter 53 for a capital project that will substantially affect a community or a community's public transportation service is required to provide the following certification.

As required by 49 U.S.C 5323(b), the **Applicant** certified that it has, or before submitting its application, it will have:

- A. Provided an adequate opportunity for public review and comment on the proposed project;
- B. After providing notice, including a concise description of the proposed project, published in a newspaper of general circulation in the geographic area to be served, held a public hearing on the project if the project affects significant economic, social, or environmental interests;
- C. Considered the economic, social, and environmental effects of the proposed project; and
- D. Determined that the proposed project is consistent with official plans for developing the community.

Certification of Restrictions on Lobbying

The **Applicant** certifies that:

- A. As required by U.S. DOT regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, the **Applicant's** authorized representative certifies to the best of his or her knowledge and belief that for each application for Federal assistance exceeding \$100,000:
 - (1) No Federal appropriated funds have been or will be paid by or on behalf of the **Applicant** to any person to influence or attempt to influence an officer or employee of any Federal agency, Member of Congress, officer or employee of Congress, or employee of a Member of Congress about an award of Federal assistance, or the continuation, renewal, extension, amendment, or modification of any Federal assistance agreement; and
 - (2) If any funds other than Federal appropriated funds have been or will be paid to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application for Federal assistance, the **Applicant** assures that it will

complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," including information required by the instructions accompanying the form, which form may be amended to omit such information as authorized by 31 U.S.C. 1352.

- (3) The language of this certification shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements).
 - (4) The language of this certification shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements).
- B. The **Applicant** understands that this certification is a material representation of fact upon which reliance is placed and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. The **Applicant** also understands that any person who fails to file a required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Alcohol Misuse and Prohibited Drug Use

The **Applicant** hereby certifies that as required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," at 49 CFR part 655, subpart I, the **Applicant** certifies that it has established and implemented an alcohol misuse and anti-drug program, and has complied with or will comply with all applicable requirements of FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters

As required by U.S. DOT regulations on Governmentwide Debarment and Suspension (Nonprocurement) at 49 CFR 29.510:

- (1) The **Applicant** certifies to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction: violation of Federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state or local) with commission of any of the offenses listed in paragraph (2) of this certification; and,
 - (d) Have not within a three-year period preceding this certification had one or more public transactions (Federal, state or local) terminated for cause or default.
- (2) The **Applicant** also certifies that if, later, it becomes aware of any information contradicting the statements of paragraphs (a) through (d) above, it will promptly provide that information to the Division.
- (3) If the **Applicant** (Primary Participant) is unable to certify to the statements within paragraphs (1) and (2) above, it shall indicate so on its Signature Page and provide a written explanation to the Division.

Procurement Compliance

Applicant certifies that its procurements and procurement system will comply with all applicable Federal laws and regulations in accordance with applicable Federal directives, except to the extent FTA has expressly approved otherwise in writing.

Applicant certifies that it will include in its contracts financed in whole or in part with FTA assistance all clauses required by Federal laws, executive orders, or regulations, and will ensure that each subrecipient and each contractor will also include in its subagreements and its contracts financed in whole or in part with FTA assistance all applicable clauses required by Federal laws, executive orders, or regulations.

School Transportation Agreement

- A. As required by 49 U.S.C. 5323 (f) and (g) and FTA regulations, "School Bus Operations," at 49 CFR 605.14, the **Applicant** understands and agrees that it and each lessee, third party contractor, or other participant in the project at any tier may engage in school transportation operations in competition with private school transportation operators that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. 5323 (f) or (g), the terms and conditions of which are incorporated herein by reference.
- B. The **Applicant** understands and agrees that:
- (1) The requirements of FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. 5323 (f) or (g), will apply to any school transportation service it or its lessees, third party contractors, or other participants in the project provide,
 - (2) The definitions of FTA regulations, "School Bus Operations," 49 CFR part 605 will apply to this School Transportation Agreement, and
 - (3) If there is a violation of this School Transportation Agreement, FTA will bar the **Applicant**, lessee, third party contractor, or other participant in the project that has violated this School Transportation Agreement from receiving Federal transit assistance in an amount FTA considers appropriate.

Private Mass Transportation Companies

As required by 49 U.S.C. 5323(a)(1), the **Applicant** certifies that before it acquires the property or an interest in the property of a private mass transportation company or operates mass transportation equipment or facilities in competition with, or in addition to, transportation service provided by an existing mass transportation company, it has or will have:

- A. Found that assistance is essential to carrying out a program of projects as determined by the plans and programs of the metropolitan planning organization;
- B. Provided for the participation of private mass transportation companies to the maximum extent feasible consistent with applicable FTA requirements and policies;
- C. Paid just compensation under state or local law to a private mass transportation company for its franchises or property acquired; and
- D. Acknowledged that the assistance falls within the labor standards compliance requirements of 49 U.S.C. 5333(a) and 5333(b).

Miscellaneous Requirements

Applicants of FTA funding must ensure the following:

- A. The **Applicant** organization has the requisite fiscal, managerial and legal capability to carry out the FTA program and to implement and manage the project.
- B. Some combination of state, local and private funding sources has or will be committed to provide the required local share.
- C. The **Applicant** has, or will have by the time of delivery, sufficient funds to operate and maintain the vehicles and/or equipment purchased under the project, as applicable. Additionally, project equipment used in the provision of services will be maintained in accordance with detailed maintenance and inspection schedules as provided by the manufacturer.

Standard Assurances

The **Applicant** assures that it will comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal requirements in carrying out any project supported by an FTA grant or Cooperative agreement. The **Applicant** agrees that it is under a continuing obligation to comply with the terms and conditions of the grant agreement or cooperative agreement issued for its project with FTA. The **Applicant** recognizes that Federal those modifications may affect project implementation. The **Applicant** agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise.

Certification of Provision of Necessary Local Matching Funds

The **Applicant** hereby assures that sufficient non-Federal funds have been or will be committed to provide the local share of the project's operating cost.

Inspection

The **Applicant** hereby certifies that it shall permit the FTA, the Comptroller General of the United States and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

Disadvantaged Business Enterprise Assurance

In accordance with 49 CFR 26.13(a), the **Applicant** assures that it shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any third party contract, or subagreement supported with Federal assistance derived from the U.S. DOT or in the administration of its DBE program or requirements of 49 CFR part 26. The **Applicant** assures that it shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of all third party contracts and subagreements supported with Federal assistance derived from the U.S. DOT.

Civil Rights

The **Applicant** hereby agrees that it will comply with the following requirements:

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

(b) Equal Employment Opportunity. The following equal employment opportunity requirements apply to the **Applicant**:

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

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

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

(iv) The **Applicant** hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by the U.S. Department of Transportation, to the end that, in accordance with Title VI of the Act, no persons in the United States shall, on the grounds of race, color, creed, national origin, sex or age be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the **Applicant** received Federal financial assistance from the Department under Federal Transit Administration Programs; and HEREBY GIVES ASSURANCE THAT it will immediately take any measures to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the **Applicant** by the Department under Federal Transit Administration Programs, this certification shall obligate the **Applicant**, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided this certification shall obligate the **Applicant** for the period during which it retains ownership or possession of the property. In all other cases, this certification shall obligate the **Applicant** for the period during which the Federal financial assistance is extended to it by the Department under Federal Transit Administration Programs.

THIS CERTIFICATION is given in the consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the **Applicant** by the Department under Federal Transit Administration Programs. The **Applicant** recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this certification, and that the United States shall have the right to seek judicial enforcement of this certification. This certification is binding on the **Applicant**, its successors, transferees, and assignees. The person or persons whose signatures appear on the Declaration page are authorized to sign this certification on behalf of the **Applicant**.

Nondiscrimination Assurance

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation -Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the **Applicant** assures that it will comply with all requirements of 49 CFR part 21; FTA Circular 4702.1, "Title VI Program Guidelines for Federal Transit Administration Recipients", and other applicable directives, so that no person in the United States, on the basis of race, color, national origin, creed, sex or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the **Applicant** receives Federal assistance awarded by the U.S. DOT or FTA as follows:

- 1) The **Applicant** assures that each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
- 2) The **Applicant** assures that it will take appropriate action to ensure that any transferee receiving property financed with Federal assistance derived from FTA will comply with the applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21.
- 3) The **Applicant** assures that it will promptly take the necessary actions to effectuate this Assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA, the **Applicant** assures that it will submit the required information pertaining to its compliance with these requirements.
- 4) The **Applicant** assures that it will make any changes in its 49 U.S.C. 5332 and Title VI implementing procedures as U.S. DOT or FTA may request.
- 5) As required by 49 CFR 21.7(a)(2), the **Applicant** will include in each third party contract or subagreement provisions to invoke the requirements of 49 U.S.C. 5332 and 49 CFR part 21, and include provisions to those requirements in deeds and instruments recording the transfer of real property, structures and improvements.

Assurance of Authority of the Applicant

I declare that the foregoing certifications and their requirements are understood and shall be fully complied with. Further, I hereby certify that the statements and exhibits provided in this Application are true, accurate and correct.

The Authorized Official who signs these certifications, assurances, and agreements affirms that both he/she and its governing board representative have adequate authority under applicable state and local law and the Applicant's internal rules to:

- (1) Execute and file the application for Federal assistance on behalf of the Applicant;
- (2) Execute and file the required certifications, assurances, and agreements on behalf of the Applicant binding the Applicant; and
- (3) Execute grant agreements and cooperative agreements with FTA on behalf of the Applicant.

Executed on _____ at _____,
(Date) (City) (State)

(Date) (Signature of Authorized Official)

IN WITNESS WHEREOF, I have hereunto affixed my official signature of the

(Name of Applicant)

This ____ day of _____, 20____.

(Signature of Governing Board Representative)

(Title)

APPENDIX I: GLOSSARY OF TERMS

CAPITAL EQUIPMENT OR FACILITIES Vehicles, equipment and facilities which have a multiyear usable life. For the purpose of this program only transportation related capital equipment is eligible for funding.

CHARTER A private service under contract to a given group where the general public is excluded and which is incidental to the normal operation of the transportation system and which is not on a regular basis.

CONTRACT REVENUE Revenue earned for providing specific service(s) for social service agencies.

DEMANDRESPONSE Service which is tailored to meet the specific transportation needs of travelers, usually through route deviations based on requests for the service. DialARide is a common form of demandresponsive transportation.

DISABLED Any individual who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, is unable without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected. The definition of "disability" was amended in MAP-21 so that it has the same meaning as in the Americans with Disabilities Act (ADA), 42 U.S.C. 12101, et seq. However, the definition in section 5302 does not apply to the half-fare provision in section 5307(c)(1)(D). The half-fare provision continues to apply to seniors, persons with Medicare cards, and persons who "because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design."

ELDERLY/OLDER ADULTS – *Senior* This is a new term to Chapter 53 under MAP-21, and means an individual who is 65 years of age or older. The term is used in Section 5310 - Enhanced Mobility for Seniors and Individuals with Disabilities grant program.

FISCAL YEAR From July 1 through June 30; the same as the State fiscal year.

FIXED ROUTE/FIXED SCHEDULE Vehicles operating on a fixed route and fixed schedule.

FTA Federal Transit Administration

FULL TIME HOURLY EMPLOYEE Those employees working approximately 2,080 hours per year.

GRANT PERIOD/PROJECT YEAR July 1 through June 30.

INTERGOVERNMENTAL REVIEW PROCESS A process whereby all levels of government are notified of proposed projects involving federal funds. It is intended to assure that conflicting projects or projects not in the best interest of the community are identified early in the planning phase. This review can be done by the regional planning and development council or commission as well as by the State Clearinghouse.

LOCAL FUNDS OR SHARE Refers to the match for the Section 5311 federal dollars.

LOW-INCOME INDIVIDUAL - The term is defined as, "an individual whose family income is at or below 150 percent of the poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved." The formulas for funding apportionment in sections 5307 and 5311 now include consideration of the number of low-income individuals in a rural or urbanized area for part of the apportionment. However, this definition does not apply to the formula for public transportation on Indian reservations, which defines a low-income individual as an individual whose family income is at or below 100 percent of the poverty line.

DEVIATED FIXED ROUTE/DEMAND RESPONSIVE Vehicles that operate on a fixed route, but will detour from the route to pick up or drop off passengers. After the customer is served, the vehicle will return to the fixed route.

NONOPERATING All costs except operating and capital that are needed to operate the transit property.

OFFICIAL TRANSCRIPT Written minutes taken at a public meeting preferably by a court reporter. These minutes must be certified by a responsible official of the applicant's agency.

OPERATING EXPENSE "Fuel, oil, replacement tires, replacement parts, driver's and mechanics salaries, dispatcher's salary, licenses" (23 CFR 825, Appendix A Paragraph 3.b(9) and contracted vehicle maintenance service, hand tools.

PARTTIME HOURLY EMPLOYEE Those employees working approximately 1,040 hours per year.

PASSENGERS The number of one way passenger trips, a round trip taken by the same individual should be counted as two passengers.

PUBLIC TRANSPORTATION - Public Transportation Under MAP-21, Congress amended the definition of "public transportation" to specify that public transportation is regular, continuing, shared-ride, surface transportation service that is "open to the general public or open to a segment of the general public defined by age, disability, or low income." Public transportation does not include Amtrak service, intercity bus service, charter bus service, school bus service, sightseeing service, courtesy shuttle service for patrons of one or more specific establishments; or intra-terminal or intra-facility shuttle services.

SERVICE AREA Geographic area over which the Project is operating and the area whose population is served by the Project including adjacent areas affected by the Project.

SMALL URBAN Those communities with a population of 50,000 or less.

WORK RUNS Service provided primarily to meet the needs of employees of one or more firms in traveling to and from work, but also open to the general public.

APPENDIX II: BUDGET DEFINITIONS

ELIGIBLE EXPENSES

Salaries

Manager - Fixed compensation paid regularly for services rendered by the manager including sick leave, paid holidays, vacation and other paid absences such as military leave, jury duty, death in family, etc.

Drivers - Fixed compensation paid regularly for services rendered by the drivers including sick leave, paid holidays, vacation and other paid absences such as military leave, jury duty, death in family, etc.

Other - Fixed compensation paid regularly for services rendered by the secretary, dispatcher, mechanics and other staff including sick leave, paid holidays, vacation and other paid absences such as military leave, jury duty, death in family, etc. Gross wages must be reported.

Fringe Benefits - An employment benefit granted by an employer that involves a money cost without affecting the basic wage rate. These include:

- a) Social Security
- b) Retirement of Pension Plans - *Pension benefits and contributions to a plan only if actually paid and only up to a maximum of the current year accrual are eligible.*
- c) Hospital, Medical, Surgical Plans
- d) Dental and Optical Plans
- e) Life Insurance Plans
- f) Short-term Disability Insurance Plans
- g) Unemployment Insurance
- h) Workmen's Compensation Insurance
- i) Uniform and Work Clothing Allowance
- j) Miscellaneous

Board Expenses - Costs paid in accordance with Article 27, Chapter 8, Section 6 of the **Code of the State of West Virginia**, as amended. Board members shall receive up to fifty dollars for each meeting actually attended with total compensation paid to any members by the authority for any fiscal year not to exceed in the aggregate the sum of \$600. Each member shall also be reimbursed by the authority for all reasonable and necessary expenses actually incurred in the discharge of their duties as a member of the board.

CDL Testing - Costs incurred to obtain or maintain CDL Licenses.

Computer Supplies - Lines, cable, connector, packaged computer software with a value of less than \$500, licenses, and other computer supplies (does not include computer publications) for use in the office.

Contracted Vehicle Maintenance Services - The repair or maintenance of vehicles or related vehicular equipment under contract or on a single job basis with an outside organization.

Contractual Services - Costs incurred by the transit system as a substitute for in-house employee labor. Examples of this are labor and services provided by attorneys, computer service companies, management consultant, bookkeeping services, janitorial services, etc. Lease agreements except for rental of property or buildings, lease-purchase agreements and maintenance contracts for repair of business machines, e.g., typewriters, copiers, fax machines and computers, etc., should be included here.

Drug & Alcohol Testing Expenses - Costs incurred to meet the requirements of 49 C.F.R. Part 655.

Fuel & Oil - Fuel, lubricants and oil needed to operate a vehicle.

Garage/Storage Costs - Includes leasing or owning space for the repair and maintenance of vehicles; inspecting, repairing, replacing components of garage and shop buildings and equipment; materials and supplies used to clean, maintain and repair components of the garage, shop building, grounds and equipment. Costs incurred for controlling access to yards, buildings and structures should also be taken into account.

Hand Tools - Any small tool such as wrenches, screwdrivers, drills, etc. that are necessary to maintain or repair a vehicle.

Insurance (Transit Property, Vehicle Insurance & Other) - Costs incurred to provide insurance coverage in the event that a transit vehicle is involved in an accident and/or passengers thereupon, and/or property or other persons are involved; valuable papers and record insurance should be included here as well as theft, fire, casualty and liability insurance for the transit property's office, maintenance facility and vehicles. Also, costs incurred by the transit provider for insurance coverage for property, owned or leased, and not located in the confines of the maintenance and/or office facilities, including radio equipment and towers, etc. The bonding of employees who handle money, etc. should be included here.

Marketing - Funds expended in the promotion of the transit system in order to increase ridership and/or revenues. These expenses include payment for advertising space in newspapers, periodicals, billboards, radio, television, etc.; the cost of promotion media such as maps, leaflets and brochures, posters, etc.; and, the cost of promotional items such as rulers, shopping bags, etc. Fees, commissions and expenses of an advertising agency for the development and production of advertising campaigns and other promotional material. Distribution of promotional material including temporary help and marketing research activities that would incur expenses should also be included here.

Office Equipment - Any equipment such as desks, calculators, typewriters, filing cabinets, telephone systems, copiers, fax machines, computers and computer equipment such as modems, printers, etc. that is necessary to the operation of the transit system. Any computer software or licenses purchased for use in the office with a value greater than \$500 for each item.

Office Expenses - Those supplies that are normally used in the operation of an office and are primarily considered expendable in nature, e.g., letterhead, copy machine paper, toner, typewriter cartridges, calculator ribbons, staplers, tape dispensers, magazine subscriptions, etc. Postal and freight charges are also included here.

Office Maintenance - Costs incurred for the maintenance of the administrative office facility, including painting, cleaning, and replacement of fixtures which are a necessary part of the office.

Physicals - Costs incurred to conduct physicals for the drivers.

Printing/Copying - Costs incurred for printing or copying of stationery, business forms, reports, etc. Printing of schedules should be included here.

Rent - Includes cost of leasing property (real and personal) and premises for the purpose of conducting transit authority business.

Replacement Parts - Replacement parts for a transit vehicle necessary to its safe, reliable and economical operation; purchase of tires and tubes should be included here.

Telecommunications - Monthly charges by the phone companies for service, teleconferencing, long distance charges, data circuits for computers, installations or moving charges, Internet charges, and line charges for facsimile equipment.

Travel - Fares and allowances for transportation of transit system employees on airplanes, trains, etc. This line item also includes expenses for food and lodging, reimbursement for mileage, charge for participation in conferences and other related business meeting expenses. Must be in accordance with the travel regulations as issued by the DMTF-Public Transit.

Uniform - Articles of clothing purchased or rented for employees which constitute the transit system's uniform(s).

Utilities - Payments made to various utilities for utilization of their resources (e.g. electric, gas, water, sewer, etc.)

Miscellaneous - Those costs that are not recognized in any other categories such as taxes, licenses, books, publications, bus washes, etc. Also costs incurred by a CPA firm that performs the transit agency's annual audit.

REVENUES

Contracted Revenues - The revenue earned under contractual arrangements, either written or oral, with public and/or private universities, social service agencies, day care centers, clinics, manpower programs, etc. For a specific service usual during regular hours of transit operation and usually on a regular basis. This service must be open to the general public.

Farebox Cash - Actual cash received from the farebox

Farebox Tickets - Cash value of passes, discount tickets, etc.

Interest - Interest on savings accounts, investment income, etc.

Other - Those revenues not recognized in any of the other categories such as freight fees

ADDITIONAL ELIGIBLE LOCAL SHARE SOURCES

Advertising - The profits earned from displaying advertising materials on transit system vehicles and property. The amounts recorded herein should be net of any fees paid to

advertising agencies who place the advertisement with the transit system. Profits earned from advertising may be considered local match.

Charter - A private service under contract to a given group where the general public is excluded **and** which is incidental to the normal operation of the transportation system **and** which is not on a regular basis. Profits earned from charter services may be considered local match.

SECTION 5311 REPORTING REQUIREMENTS

Number of Active Vehicles – The total number of operational revenue vehicles in the fleet available for general public transit service, including spare or back-up revenue vehicles. The total also should include any operational revenue vehicles used by contractors in general public transit service. Non-revenue service vehicles and personal vehicles should not be included.

Number of ADA Accessible Vehicles in Fleet – The number of active vehicles in the fleet which meet all ADA accessibility requirements.

Peak Hour Fleet – The greatest number of revenue vehicles operating at one time.

Number of Days of Revenue Operation Per Month – Total number of days vehicle operates in revenue service in a month.

Hours of Vehicle Operation Per Month - The total hours that vehicles travel while in and out of revenue service. Vehicle hours include deadhead, operator training, maintenance and charter services.

Revenue Vehicle Hours Per Month - The total hours that each vehicle travels while in revenue service. Vehicle revenue hours include layover/recovery time. Revenue hours exclude deadhead, operator training, maintenance and charter services.

Cost Per Vehicle Hour - Total operating cost divided by the total number of vehicle hours.

Cost Per Revenue Vehicle Hour - Total operating cost divided by the total number of **revenue** vehicle hours.

Passengers Per Revenue Hour – Total number of unlinked passenger trips divided by the total number of revenue hours.

TOTAL PASSENGER TRIPS - The number of passengers who board public transportation vehicles. Passengers are counted each time they board vehicles no matter how many vehicles they use to travel from their origin to their destination. Includes PCAs, transfers and non-paying passengers. Excludes service animals, meals and packages.

Total Elderly – All passengers 60 years of age and older.

Total Disabled – Total number of all passengers who have a physical or mental impairment that substantially limits one or major life activities.

Wheelchair Users – Total number of disabled passengers who utilize a wheelchair or other mobility device.

Non-wheelchair Users – Total number of disabled passengers who do not utilize a wheelchair

or other mobility device.

Total Other Passengers – Those passengers that are not elderly or disabled.

PLEASE NOTE: DO NOT COUNT AN INDIVIDUAL PASSENGER IN MORE THAN ONE CATEGORY.

TOTAL VEHICLE MILES – Total mileage calculated from the time each vehicle leaves the garage (or dispatch point) to the point it returns to the garage (or dispatch point). Vehicle miles include all deadhead, operator training, maintenance and charter service.

TOTAL REVENUE VEHICLE MILES - The miles that vehicles travel while in revenue service. Vehicle revenue miles include layover/recovery time. Revenue miles exclude deadhead, operator training, maintenance and charter services.

Cost Per Revenue Vehicle Mile - Total operating cost divided by the total number of revenue miles.

Revenue Per Revenue Vehicle Mile – Total revenues divided by the total number of revenue miles.

Cost Per Passenger - Total operating cost divided by the total number of passengers.

Revenue Per Passenger – Total revenues divided by the total number of passengers.

Passenger Per Revenue Mile – Total passengers divided by the total number of revenue miles.

Revenue Per Expenses (Goal is at least 12%) – Total revenues divided by total operating costs.

Total Number of Deadhead Miles – The miles that a vehicle travels when out of revenue service. Includes leaving the garage (or dispatch point) to the first passenger pick-up and last passenger drop-off to the garage (or dispatch point). Deadhead does not include charter service, school bus service, operator training and maintenance.

TOTAL MEALS DELIVERED – Total number of meals delivered to the home bound.

EMPLOYEES – Total number of full and part-time employees.

Total of Full Time Employees – The total number of employees, whether paid or volunteer, that work full time. Normally it would be those employees working 2,040 hours per week.

Total of Part Time Employees – The total number of employees, whether paid or volunteer, that work part time. Normally it would be those employees working 1,020 hours per week.

Drug and Alcohol Testing N/A

National Rural Transit Database N/A

APPENDIX III: PRIVATE SECTOR PARTICIPATION PROCEDURES

STATE OF WEST VIRGINIA

49 U.S.C. SECTION 5311

PRIVATE ENTERPRISE PARTICIPATION

PROCEDURES MANUAL

**Developed By
West Virginia DMTF-Public Transit**

INTRODUCTION

These procedures shall serve as the State of West Virginia's established criteria for the implementation and guidance of the requirements on Private Sector Participation for 49 U.S.C. Section 5311 Recipients. It is policy, that local entities, as a part of their transportation planning, provide reasonable notice to private transportation providers and possible new business entrants regarding proposed services and opportunities for private providers in order that they may present their views concerning the development of local plans and programs. Further, it is policy, that a fair appraisal of private sector views and capabilities be assured by offering private providers an early opportunity to participate in the development of projects that involve new and/or restructured mass transit services. Additionally, the DMTF-Public Transit shall, under this grant program, include in its definition of private sector participation, the award of all contracts to private enterprises resulting from competitively bid purchases of goods and or services.

It must be recognized that very few potential private providers exist in small communities, and that the nature and characteristics of the rural and small urban environment, and wide variety of small operators (less than 30 buses) funded under this grant program have been taken into consideration in the development of these procedures.

The DMTF-Public Transit and its subgrantees shall practice good faith efforts to promote the participation of the private sector in the planning and provision of mass transit services both as an independent private activity and, whenever feasible, through competitive contractual arrangements with public bodies.

1. State Procedures and Requirements for Achieving Early Participation

A public notice shall be placed in the local newspapers, at least twice in a fourteen (14) day period with at least seven (7) days intervening between the advertisements, announcing that the subgrantee will meet with interested private transportation providers to discuss and determine if any existing transit service to the community could be more efficiently provided by the private sector. In addition, the subgrantee will encourage discussion of possible public/private partnerships in the provision of transportation services. Written requests for such meetings may be submitted throughout the year to the subgrantee.

Documentation of this effort shall include copies and receipts of all certified letters from the subgrantee to the private providers and copies of the annual public notices as published in the local newspapers and their respective Certifications of Publication. This documentation shall be incorporated into the subgrantees' annual application for federal funding.

2. State Guidance to Subgrantees For Policy Implementation

2.1 Every subgrantee shall provide a written description of the current level of participation by private providers as a part of their grant application.

2.2 All subgrantees will be required to publish a public notice in local newspapers, at least twice in a fourteen (14) day period with at least seven (7) days intervening between advertisements, when the subgrantee prepares its operating and/or capital grant applications for submittal to the State. This notice shall briefly describe the subgrantees' project; request written comments from interested parties within fifteen (15) days after the first public notice appears in the newspapers; permit examination of the complete application at the subgrantees office; and state that, if

requested, a public hearing, scheduled by the subgrantee, will be held to discuss the grant application. On behalf of the subgrantees, the DMTF-Public Transit will annually advertise a Public Notice statewide which will provide for early participation by private providers in the planning and development stages of the local providers transit projects. Note: Early notification letters and their certified receipts will be used in the initial year.

2.3 Subgrantees shall provide written minutes and/or transcripts of any meetings and/or hearings resulting from written notifications to private providers and/or public notices.

2.4 Documentation must be provided to ensure that the private sector proposal has been thoroughly considered and that a true cost comparison has been made; that the established criteria was used in the comparison; that the proper methods for resolving objections on the local level was followed; and justification on behalf of the local committees' decision.

2.5 Subgrantees will be required to conduct an annual review of their existing transportation services.

In the event of the development of new service or significant restructuring of services, a public notice will be placed in local newspapers at least twice in a fourteen (14) day period with at least seven (7) days intervening between the advertisements alerting private transportation providers that the subgrantee, in not less than thirty (30) days after the notice first appears in the newspapers, will be implementing a modification of its transit service to the community (i.e., either new service or a significant restructuring of the system). This notice will request interested providers seeking to discuss supplying transportation services and/or to submit written comments

on the various service modification proposals that should be considered by the subgrantee to do so within fifteen (15) days after the public notice first appears in the newspapers.

If there is no response from private transportation providers during this fifteen (15) day period, the subgrantee may implement its proposal thirty (30) days after the public notice first appears in the newspapers.

"New or restructured services" may involve any or all of the following: establishment of a new mass transportation service; addition of a new route or routes; a significant increase in service on an existing route; or a change in the type or mode of service provided on a specific, regularly scheduled route. A significant increase on an existing route is any change(s) that will affect the service characteristics by at least 20%.

Service characteristics/statistics include but are not limited to: frequency of service, route miles, route hours, number of passengers, farebox revenue and operating costs.

The provision of reoccurring seasonal service modifications, such as extended transit service to accommodate the Christmas shopping season, shall not be subject to the requirements of this subsection.

The requirements of this subsection may be waived when major highway and/or bridge construction projects or restrictions temporarily affect the provision of transit service to the community.

If an emergency situation ever arises where an unexpected financial crisis threatens the ongoing short-term or long-term provision of all existing public transit service to the area unless major system restructuring is implemented as quickly as possible, the sub-grantee may initiate these service changes after holding a public hearing on the matter. This public hearing will be held no sooner than fifteen (15) days

after the public notice announcing it first appears in the newspapers. The public notice shall be placed in local newspapers at least twice in a fourteen (14) day period with at least seven (7) days intervening between the advertisements. The notice will, in part, briefly describe the proposed system restructuring and request input from interested parties. Concurrently, the sub-grantee will work with interested private transportation providers in an attempt to develop a transition plan to ensure the continued long-term provision of service to the public.

2.6 Criteria to be utilized in evaluating public/private service decisions shall include but not be limited to the following and shall be made available to private providers prior to preparation of their proposals:

A. Certification that the provider has or will have the legal, financial and technical capabilities to carry out the proposed transportation service.

This includes but is not restricted to the following: regulatory approval if the private provider is a regulated carrier (e.g. taxi); proper incorporation as a private nonprofit organization if the agency is a Section 16 provider; financial solvency now and in the near future; insurance coverage; administrative capability to effectively and efficiently run their operation; and, trained personnel to properly maintain their vehicles.

B. The existence or planned implementation of a documented preventative maintenance and daily safety check program to insure that the vehicles are in a safe operating condition.

C. That the private provider can and will comply with the Grant Program Safety Requirements outlined in Appendix A of these Procedures.

D. That the proposed private service be less expensive to operate than the present or proposed public service based on the fully allocated cost of the service. Fully

allocated costs will include all subsidies utilized by public providers (e.g. operating subsidies, capital grants and the use of public facilities). In addition, at least the following ratios should be examined: revenue/expenses; cost/passenger; and cost/route mile.

E. That the proposed private service offer at least a comparable level of service to the community in terms of convenience and cost as the existing or proposed public service.

Factors to consider include but are not limited to: frequency of service; daily hours of service; vehicle accessibility for the elderly and the handicapped; and, passenger fares, especially nonpeak fares for the elderly and handicapped.

F. That the provider will comply with Federal laws and regulations in the areas of: equal employment opportunity: nondiscrimination on the basis of a handicap; Title VI of the Civil Rights Act of 1964; and, the disadvantaged business enterprise procurement program.

2.7 The methodology to be used at the local level in making true cost comparisons shall at a minimum be based on the following:

1. The fair market value of in-kind and/or donated services.
2. The written description of how the monetary values of the in-kind and/or donated services were determined.
3. The comparison of the actual per vehicle costs. Examination and comparison of these criteria will allow the local body reviewing the proposals to fairly determine the most efficient method of providing the services in question.

2.8 Sub-grantees shall be required to provide the State with copies of all complaints from private operators and shall provide a narrative description of the resolution process and results.

2.9 In the event of a dispute or objection to the sub-grantees' proposed project, the sub-grantee will be required to notify their local Planning and Development Council that an objection or dispute has arisen and requesting the formation of a local resolution committee. The sub-grantee and private provider shall submit their proposals to the Planning and Development Council for review. One of the following methods will be used by the Planning and Development Council in resolving the objection or dispute:

- A. The Planning and Development Council will review both proposals in-house and reach a decision.
- B. The Planning and Development Council may offer the formation of a local resolution committee. A list of the individuals, selected by the Council, to serve on the committee will be provided to the subgrantee and private provider for their review. Both parties shall agree on the list of committee members prior to the review of their proposals.
- C. The Planning and Development Council may develop another method for local resolution of objections and/or disputes. Any additional methods for resolving disputes and/or objections must be submitted to the DMTF-Public Transit for review and approval prior to implementation.

The criteria to be used in reviewing the two (2) proposals has been described in detail under numbers 2.6 and 2.7 of these procedures. An appeal for further

review may be made to the State if either party considers the decision made at the local level to be unsatisfactory.

3. State Process For Resolving Conflicts/Complaints Not Resolved At The Local Level

Should the sub-grantee and private provider be unable to reach a solution to the objection or complaint or be dissatisfied with the decision made at the local level, an appeal may be made to the DMTF-Public Transit.

The DMTF-Public Transit will, upon written request of either party, form a Special Transit Advisory Committee (STAC) to review the dispute or objection. The STAC will be composed of members who will be representatives of the following groups: public transit, private transit, and paratransit, as well as a governmental agency representative and a consumer.

It shall be the responsibility of the Division to select the members of the STAC and to determine the time and location of the Special Committee meeting. Every effort will be made to select members for the Special Committee from areas other than those areas involved in the dispute of the proposed project(s).

The subgrantee involved in the objection or dispute and a representative of the objector or opposing individual will both be allowed to present their cases to the STAC and to answer any questions that may arise during the meeting.

Only one (1) meeting of the STAC will be held and a decision will be made by its members after each side has presented their case. Members of the DMTF-Public Transit staff will be present at the meeting, but will not be involved in reaching the decision of the Committee. A private vote of the Committee members will be taken, and the two parties involved in the dispute will be notified of the Committee's decision in writing.

The decision of the Special Transit Advisory Committee shall be final and there is no appeal process. However, private providers may appeal to the Federal Transit Administration (FTA) but "only upon procedural grounds that the local planning and programming process has not established procedures for the maximum feasible participation of private transportation providers consistent with Section 8(e) and the spirit of this policy; or that local procedures were not followed; or that the local process does not provide for the fair resolution of disputes."

Private transportation providers can file their appeal with FTA at the following address:
Regional Administrator
Federal Transit Administration, Region III
1835 Market Street, Suite 1910
Philadelphia, Pennsylvania 19103-4124

4. State Technical Assistance Provided to Private Operators and Subgrantees

Technical assistance provided to the sub-grantees and private providers are the West Virginia Transportation Providers Directory, RSAM Courses, and Safety Training. The Statewide Transportation Providers Directory identifies all the potential agencies in specific service areas that could provide the service. The DMTF-Public Transit annually notifies the private carriers in writing urging them to contact their local paratransit and public transit providers to discuss any proposed transportation services. Notice shall be published in the largest newspapers in the state.

APPENDIX IV: WV REGIONAL PLANNING AND DEVELOPMENT COUNCILS AND MPO'S

REGION I

Region I Planning and Development Council

Consisting of: McDowell, Mercer, Monroe, Raleigh, Summers and Wyoming Counties

Executive Director: Jason Roberts
Suite 5, 1439 East Main Street
Princeton, West Virginia 24740
PH: (304) 431-7225
FAX: (304) 431-7235
Email: regionone@regiononepdc.org
Website: www.regiononepdc.org/

Contact: Jeff Johnson, Community Development Director
Email: jeffjohnson@regiononepdc.org

REGION II

Region II Planning and Develop Council

Consisting of: Cabell, Lincoln, Logan, Mason, Mingo, and Wayne Counties

Executive Director: Chris Chiles
400 Third Avenue
Huntington, West Virginia 25712
PH: (304) 529-3357
Email: info@region2pdc.org
Website: www.region2pdc.org/

Contact: Kathy Elliott, Senior Project Administrator
Email: kkelliott@ntelos.net

MPO - KYOVA Interstate Planning Commission

Consisting of: Huntington, WV and Ironton, OH (Cabell and Wayne Counties, WV and Lawrence County, OH)

Contact: Mr. Saleem Salameh, P. E., Executive Director
Same address and phone information
Email: info@kyovaipc.org
Website: www.kyovaipc.org

Attention: Saleem Salameh, P.E.
Technical Study Director/Transportation Engineer
Email: ssalameh@ntelos.net

REGION III

MPO - Regional Intergovernmental Council

Consisting of: Charleston Metropolitan Area (Kanawha and Putnam Counties) and

Region III – BCKP Regional Intergovernmental Council

Consisting of: Boone, Clay, Kanawha, and Putnam Counties

Executive Director: Colt Sandoro
315 “D” Street
South Charleston, WV 25303
PH: (304) 744-4258
FAX: (304) 744-2534
Email: coltsandoro@wvregion3.org
Website: www.wvregion3.org/

REGION IV

MPO – Fayette/Raleigh Metropolitan Planning Organization

Consisting of: Fayette and Raleigh Counties and

Region IV Planning and Development Council

Consisting of: Fayette, Greenbrier, Nicholas, Pocahontas and Webster Counties

Executive Director: John Tuggle, Executive Director
885 Broad Street, Suite 100
Summersville, West Virginia 26651
PH: (304) 872-4970
FAX: (304) 872-1012
Email: jtuggle@reg4wv.org
Website: reg4wv.org/about.html

REGION V

Mid-Ohio Valley Regional Council

Consisting of: Calhoun, Jackson, Pleasants, Ritchie,

Roane, Tyler, Wirt and Wood Counties

Executive Director: Carol Jackson
531 Market Street
Parkersburg, West Virginia 26101
or
P.O. Box 247
Parkersburg, West Virginia 26102
PH: (304) 422-4993
FAX: (304) 422-4997
Email: carol.jackson@movrc.org
Website: www.movrc.org/

MPO - Wood Washington Wirt Interstate Planning Commission

Consisting of: Parkersburg, WV, Marietta and Belpre, OH (Wood County, WV and Washington County, OH)

Contact: Randy Durst, Transportation Planning Director
Same address and phone number (ext. 125)
Email: randy.durst@movrc.org
Website: www.triplew.org/

REGION VI

Region VI Planning and Development Council

Consisting of: Doddridge, Harrison, Marion, Monongalia, Preston and Taylor Counties

Executive Director: Sheena Hunt
34 Mountain Park Drive
White Hall, West Virginia 26554
PH: (304) 366-5693
FAX: (304) 367-0804
Email: sheenahunt@regionvi.com
Website: www.regionvi.com/

Contact: Rosemary Rashella, Assistant
Email: rashella@regionvi.com

MPO - Morgantown/Monongalia Metropolitan Planning Organization

Consisting of: Morgantown/Monongalia County

Executive Director: Bill Austin, AICP
243 High Street, Room 110
Morgantown, West Virginia 26505-5427
PH: (304) 291-9571
FAX: (304) 291-9573
Email: baustin@labyrinth.net

REGION VII

Region VII Planning and Development Council

Consisting of: Barbour, Braxton, Gilmer, Lewis,
Randolph, Tucker and Upshur Counties

Executive Director: Shane Whitehair, Executive Director
99 Edmiston Way, Suite 225
Buckhannon, West Virginia 26201
PH: (304) 472-6564
FAX: (304) 472-6590
Email: swhitehair@regionvii.com
Website: www.regionvii.com/

REGION VIII

Region VIII Planning and Development Council

Consisting of: Grant, Hampshire, Hardy, Mineral
and Pendleton Counties

Executive Director: Terry Lively
8 Grant County Industrial Park
P.O. Box 849
Petersburg, West Virginia 26847
PH: (304) 257-2448; (304) 257-1221
FAX: (304) 257-4958
Email: mail@regioneight.org
tlively@regioneight.org
Website: www.regioneight.org/

REGION IX

Eastern Panhandle Regional Planning and Development Council

Consisting of: Berkeley, Jefferson and Morgan Counties

Executive Director: Carol A. Goolsby
Suite 301, 400 West Stephen Street
Martinsburg, West Virginia 25401
PH: (304) 263-1743
FAX: (304) 263-7156
Email: cgoolsby@region9wv.com
Website: www.region9wv.com

MPO – Hagerstown/Eastern Panhandle Metropolitan Planning Organization

Consisting of: Washington (MD), Franklin (PA), Berkeley (WV), and Jefferson (WV) Counties

Contact: Matthew T. Mullenax
33 West Washington Street
Hagerstown, MD 21740
PH: 240-313-2080
FAX: 240-313-2084
Email: rgordon@hepmpo.net
Website: www.hepmpo.net/

REGION X

Bel-O-Mar Regional Council and Interstate Planning Commission

Consisting of: Marshall, Ohio and Wetzel Counties and Belmont (OH) County

Executive Director: Scott Hicks
105 Bridge Street Plaza
P.O. Box 2086
Wheeling, West Virginia 26003
PH: (304) 242-1800
FAX: (304) 242-2437
Email: belomar@belomar.org
Website: www.belomar.org

REGION XI

MPO - Brooke-Hancock-Jefferson Metropolitan Planning Commission

Consisting of: Weirton, WV and Steubenville, OH (Brooke and Hancock Counties, WV and Jefferson County, OH) and

Region XI Brooke-Hancock Regional Planning and Development Council

Consisting of : **Brooke and Hancock Counties**

Executive Director: **Michael Paprocki**
PO Box 82
Weirton, WV 26062-0082
PH: (304) 797-9666
FAX: (304) 282-1821
Email: mikepap@bhjmpc.org
Website: <http://www.bhjmpc.org/>

APPENDIX V: SECTION 5311 PROGRAM SAFETY REQUIREMENTS

- A. All GRANTEES shall check, on an annual basis (and prior to hiring new drivers) the driving record of each employee covered under the GRANTEE's vehicle insurance policy

(as a vehicle operator). This check shall be made through the West Virginia Division of Motor Vehicles. It is the GRANTEE's responsibility to have safe, well qualified drivers. It is the responsibility of the GRANTEE to maintain documentation verifying that annual checks have been done.

- B. All GRANTEES agree to require physicals for each employee covered as a vehicle operator under the GRANTEE's vehicle insurance policy. Physicals shall be conducted annually. It is the responsibility of the GRANTEE to maintain documentation verifying that this has been done.
- C. All GRANTEES shall agree to develop and implement a written SSEPP plan. It is the responsibility of the GRANTEE to review and update the plan.
- D. All GRANTEES shall agree to develop and implement its own safety training program which requires, on an annual basis, written documentation of eight (8) hours of participation in safety training by the GRANTEE's drivers. It is the responsibility of the GRANTEE to maintain documentation verifying that this has been done.
- E. At all times, the GRANTEE shall maintain radio/telephone contact with its drivers to the maximum extent feasible.
- F. All drivers of handicapped accessible vehicles shall be trained in the PASS Driver Certification Program. New hires shall be trained in PASS within three (3) months of their starting date.
- G. GRANTEE shall cycle all vehicle lifts and check all tie-down mechanisms daily to insure that they are kept in proper working order.
- H. The GRANTEE shall conduct, prior to hire, a criminal background check on all new drivers. It is the responsibility of the GRANTEE to maintain documentation verifying that background checks have been done.

NOTE: It should be noted that it is the responsibility of the GRANTEE to insure compliance with each requirement. Further, the DMTF-Public Transit during on-site visits to each system shall review all records and requirements related to the Safety Program.