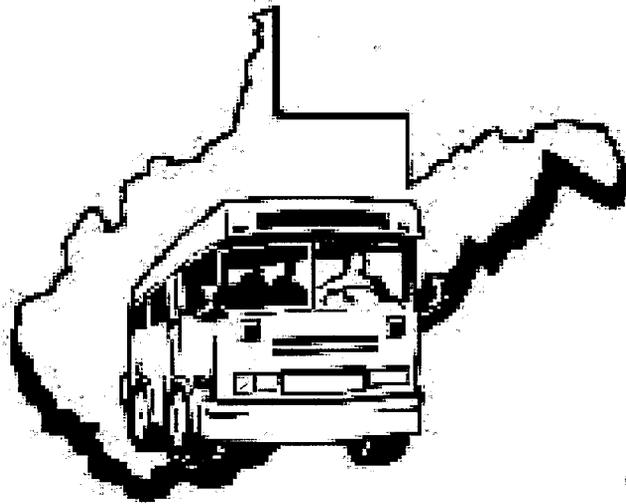


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## 5311 State Management Plan

**49 USC Section 5311  
STATE MANAGEMENT PLAN**



**WEST VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
DIVISION OF PUBLIC TRANSIT**

*Revised*  
March 2010

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## **INTRODUCTION**

The Federal Transit Act, as amended, includes a formula grant program for non-urbanized areas known as Section 5311. The Section 5311 program provides financial assistance for capital, administrative, and operating expenses to rural areas for local public transportation services.

FTA Section 5311 Program Guidance Circular (FTA Circular 9040.1F) was issued by the Federal Transit Administration (FTA) on April 1, 2007. This circular incorporates the current statutory and programmatic requirements and changes as outlined in TEA-21.

The Governor has designated the Division of Public Transit as the agency responsible for administering the Section 5311 program in West Virginia.

## **PURPOSE OF THE STATE MANAGEMENT PLAN**

The Section 5311 State Management Plan is intended to facilitate both state management and FTA oversight by documenting the state's procedures and policies for administering the Section 5311 program in a single reference. Its primary purposes are to serve as the basis for FTA's review of the state's program, and to provide public information on the state's administration of the Section 5311 program.

## **A. PROGRAM GOALS AND OBJECTIVES**

The goal of the State of West Virginia's Section 5311 Program, is to maintain and provide for the continuation of the State's existing nonurbanized transportation systems through the provision of operating and technical assistance and the purchase of capital equipment.

The objectives of the State's Section 5311 Program are to:

- ◆ Provide financial and technical assistance to nonurbanized communities for the planning, establishment, expansion and operation of efficient and effective public transportation systems;
- ◆ Perform financial planning and technical analysis to assist in the development and maintenance of public transportation services;
- ◆ Assist nonurbanized transit systems in the development and implementation of effective management and marketing strategies; and
- ◆ Provide the maximum amount of transportation services in nonurbanized areas of the State given the funding limitations.

## B. ROLES AND RESPONSIBILITIES

The Division of Public Transit was created under Chapter 17, Article 16C of the West Virginia State Code. This section designates the Division as the state agency responsible for administering all federal and state programs relating to public transit. The Division is under the supervision of the Secretary of Transportation.

Under §17-16C-3, the Division has the power to:

- (a) Assist in the development of improved public transportation facilities, services, equipment, techniques and methods, with the cooperation of transportation carriers, both public and private;
- (b) Enhance the mobility of all residents of the state, particularly those who by age, income or physical limitation experience serious transportation disadvantages;
- (c) Manage publicly funded transportation resources in a cost-effective manner and endeavor to achieve an increased ridership with available resources;
- (d) Establish a system to adequately coordinate and distribute publicly funded transportation services within the state, including, but not limited to, transportation services for senior citizens, for participants in head start programs, for disabled citizens and for private nonprofit organizations and to establish a pilot project or projects as an initial part of implementing a system of coordination and distribution;
- (e) Maintain a cooperative working relationship with public and private transportation providers, private nonprofit organizations, local planning and development councils, other state agencies and the federal government;
- (f) Coordinate and assist various public and private transportation entities in strengthening their development and operation of public transportation facilities and services;
- (g) Coordinate with other states and the federal government the planning, construction, operation and maintenance of public transportation facilities in the state having an interstate impact;
- (h) Acquire, plan, hold, construct, improve, maintain and operate, own or lease, either in the capacity of lessor or lessee, all facilities necessary or incidental thereto for the operation of public transportation systems in the state;
- (i) Apply for and receive from the federal government or from any other person, corporation, association or other entity, and grants in aid or gifts to be used for public transportation related purposes;
- (j) Provide financial assistance to local transportation agencies to the extent authorized by the Legislature and federal grants *provided* that no county or local

government may reduce the level of funding for transportation services in place upon the effective date of this section and be eligible to receive financial assistance pursuant to this section;

(k) Enter into contracts with other agencies of the state, other public bodies, private firms or individuals to provide technical services or public transportation related services;

(l) Exercise or perform any power, duty, responsibility or function in carrying out public transportation related activities which are essential to the completion of the projects;

(m) Insure local matching funds with state and local money, or both, for federal assistance projects; and

(n) Implement rules necessary to accomplish its assigned duties.

The Division is responsible for ensuring that the Section 5311 program of projects is included in the statewide transportation improvement program (STIP).

### **C. ELIGIBLE SUBRECIPIENTS**

Eligible subrecipients may include state agencies, local public bodies and agencies thereof, private-nonprofit organizations, Indian Tribes and groups, and operators of public transportation services. Private for-profit operators of transit services may participate in the program through contracts with eligible recipients.

Taxi operators, which by West Virginia Public Service Commission interpretation are considered to be “exclusive ride,” are therefore not eligible for Section 5311 funding.

Because of limited funding, the state only permits one Section 5311 (or Section 5307) grantee per county. Additionally, the state does not provide Section 5311 funding to a Section 5307 grantee, even if it provides service in a rural area.

Information about the program is included in the early planning notification and in the public notice that is published at the time the application is prepared.

#### **D. ELIGIBLE SERVICES AND SERVICE AREAS**

Section 5311 funds are available for expenditure for public transportation projects and intercity bus transportation projects in nonurbanized areas. Public transportation is defined as mass transportation by bus, rail, or other conveyance, either publicly or privately owned, which provides to the public general or special service on a regular and continuing basis. Charter or sightseeing or exclusive school bus transportation is not included in this definition.

Section 5311-funded services may be designed to maximize usage by members of the general public who are transportation disadvantaged persons, including elderly persons and persons with disabilities. Coordinated human service transportation which primarily serves elderly persons and persons with disabilities, but which is not restricted from carrying other members of the public, is considered available to the general public if it is marketed as public transit service.

Section 5311 projects may include the transportation of nonurbanized area residents to and from urbanized areas.

The Division does not impose any limitations beyond the federal rules.

## **E. ELIGIBLE ASSISTANCE CATEGORIES**

The Division funds operating assistance at a 50/50 matching ratio and makes no distinction between operating and administrative expenses. If insufficient federal funds exist, agencies may be funded at a level below 50 percent.

The Division reserves the right to fund administrative expenses at an 80/20 matching ratio if it would serve the best interests of the state and/or program. These expenses would be consistent with FTA C 9040.1F, "Project Administrative Expenses."

Capital assistance is provided at the 80/20 funding level.

## **F. LOCAL SHARE AND LOCAL FUNDING REQUIREMENTS**

Because very limited local matching funds are available for the Mountain Transit Authority (Fayette, Greenbrier, Nicholas and Webster Counties), the Potomac Valley Transit Authority (Grant, Hampshire, Hardy, Mineral, and Grant Counties) and the Preston County Rural Transportation Program (Preston County), the state has provided most of the Section 5311 matching funds for both operating and capital assistance since 1980. Without state assistance, these systems would have to close.

The Tri River Transit (Lincoln, Logan and Boone Counties) and the Little Kanawha Bus (Calhoun and Roane Counties), recipients of Section 5311 operating/capital funding since FY2000, receive funding from the state for part of their local match. Bluefield Area Transit (Mercer and McDowell Counties) and Little Kanawha Bus (Calhoun and Roane Counties) have received state assistance since FY2002.

Other recipients of Section 5311 funds provide the match from local sources. This money comes from a variety of sources including levies, county commissions, coal severance taxes, city governments, unrestricted federal funds and in-kind match.

Human service agency contract income may be used as local match provided the applicant demonstrates that all direct operating expenses for its human service contract service are recovered without the use of Section 5311 funds. At least 25 percent of Non-Emergency Medical Transportation (NEMT) must be credited to the fare box.

## G. PROJECT SELECTION CRITERIA AND METHOD OF DISTRIBUTING FUNDS

The procedures for distributing FTA Section 5311 funds are as follows:

**Priority One** - The first funding priority is to continue operating assistance to current Section 5311 recipients where there exists a continuing demand for public transportation service and a need for federal subsidy. Emphasis is placed on funding multiple county or regional transportation systems.

**Priority Two** – The second priority for funding is to support capital projects for existing systems. If and when capital funding is made available, eligible requests will be prioritized on the following basis:

- **Replacement** of old, worn-out or unsafe revenue vehicles;
- Purchase of vehicles for the **expansion** of existing services or purchase of additional vehicles to meet demonstrated capacity problems on current routes;
- Purchase of miscellaneous capital equipment (e.g. radios, shop equipment, etc.); and,
- Construction and/or renovation of facilities.

**Priority Three** – The third priority is the funding of operating and capital expenses for new rural transportation systems. When establishing new service, the Division may give priority to those areas which are ***Designated Distressed Counties*** by the Appalachian Regional Commission. Other areas may also be considered.

Before the West Virginia Division of Public Transit will approve any new rural or non-urban transit project, the following must be determined:

- **Goals and Objectives.** An agency should determine why and to whom it wants to provide transportation. As the mission of the transportation program is clarified, there are specific issues that will shape a transportation system. These include determining the geographic area to be served, the area's greatest transportation needs, and current transportation resources.
- **Needs Assessment.** Once the goals, objectives and service area are defined, a provider must determine what transportation needs are not being met by conducting a needs assessment within the proposed service area. This needs assessment will aid a system in determining:
  - transportation needs for human services clients as well as the general public;
  - frequency and times of transportation needs;
  - revenue sources to provide an adequate level of service to meet these needs;
  - existing transportation services, both public and private as well as existing vehicles in the service area, including their type, age, condition, seating capacity and whether for sale, lease or shared use;

- new vehicle and other capital needs;
- local government support of rural transit; and,
- multi-year financial plan.

The Division has developed a supplemental portion for new applicants to submit along with the Section 5311 Application Packet. Basically, this provides the *framework* for an applicant's needs assessment.

There are no TMA designated metropolitan planning areas within the state.

The applicant must demonstrate that it has the requisite legal, financial and technical capacity to carry out the program and to implement and manage the project.

Application requirements are described in the current Fiscal Year edition of the FTA Section 5311 Operating Assistance Grant package. This package is included by reference in the State Management Plan and is provided under Tab T. The Application packet is reviewed and updated on an annual basis to reflect any changes in FTA or Division policy or requirements. The questions, certifications and assurances, and budget pages are provided in an electronic format - which has been set up under EXCEL. All general information is provided to the applicants in the printed instructions.

## **H. INTERCITY BUS TRANSPORTATION**

Annually, the Division publishes a notice in 12 state newspapers soliciting intercity bus projects. The Division sends copies of the notice to Greyhound, American Bus Association (ABA), and United Motorcoach Association (UMA). ABA provided a list of members to which the Division also mails the notice.

During the development of local public transit-human services transportation plans, West Virginia gathered input from public and private operators. During this process, dozens of meetings were conducted around the state, which were attended by numerous groups. Additional opportunities for public and private provider input are afforded annually through the Transportation Improvement Plan (TIP) and Statewide Transportation Improvement Plan (STIP) processes. The Division is in frequent contact with Greyhound concerning intercity bus projects.

Periodically, the Division surveys the contiguous states of Ohio, Pennsylvania, Virginia, Maryland, and Kentucky regarding possible multi-state intercity bus projects.

The state has surveyed current Section 5311 subrecipients regarding possible connections to existing intercity services and addresses possible intercity bus connections during biennial site visits. Several of the state's Section 5311 subrecipients provide meaningful connections to the state's intercity bus network.

## I. STATE RURAL TRANSPORTATION ASSISTANCE PROGRAM

- **Program Management.** The State's Rural Transportation Assistance Program (RTAP) is the responsibility of the West Virginia Division of Public Transit. RTAP provides funding assistance for training, technical assistance, transit research and related support services. These funds are available primarily to assist operators that are involved in the provision and coordination of rural transportation services. In some cases they may also benefit properties in small urbanized areas.
- **Goals and Objectives.** The goal of the Division's RTAP is to promote improvement of public transportation services and mobility for persons living in rural areas.
- **Local Match Requirements.** All RTAP activities will be funded at the 100% federal funding level. In some cases, training scholarships will provide reimbursement for all expenses associated with attendance at seminars or workshops. Should the scholarship not cover the full cost for training, the recipient will be required to make up the difference with local funds.
- **Methods of Involving Operators in Program Development and Implementation.** The Division's RTAP utilizes the following means of involving rural operators in the development and implementation of the annual RTAP program of projects:
  - *Input by Forum.* During statewide meetings or workshops held throughout the year, such as the Managers' Workshop or the West Virginia Public Transit Association's Annual Meeting, a round table discussion is conducted among operators to determine their training and technical assistance needs and solicit input on development of the Division's RTAP program.
  - *On-Site Visits.* The Division periodically conducts reviews of the rural transit providers to evaluate and monitor performance. From these visits, subrecipients (Sections 5311, 5310, 5316 and 5317) needing or requesting assistance or training are identified and steps are generally taken by the Division to provide or obtain the services.
  - *Division Staff.* The entire staff of the Division of Public Transit aid in determining individual and statewide technical assistance needs which can be addressed through the RTAP program.
- **Project Selection Criteria.** The Division's Section 5311 Grant Manager determines, with input from the Director and staff members, as to what projects will be funded with RTAP funds.
  - *Eligible Recipients:*
    - ◆ Section 5311/5310/5316 and 5316 subrecipients
    - ◆ Rural/small-urban transit operator
    - ◆ Social/human/transit service coordinator
    - ◆ West Virginia Public Transit Association

- *Eligible Projects:*
  - ◆ Training – Either sponsored by the Division of Public Transit or by another association or organization.
  - ◆ Technical Assistance – On-site to any eligible recipient or transit studies.
  - ◆ Support Services.
  - ◆ Research.

## **J. ANNUAL PROGRAM OF PROJECTS DEVELOPMENT AND APPROVAL PROCESS**

Below is the Section 5311 annual application process. This process has a two-fold purpose of announcing proposed projects for which federal financial aid is sought and determining if the projects are consistent with state, regional, and local development programs.

- ◆ Division of Public Transit makes application packets available to current recipients.
- ◆ The applicants submit letters of intent to apply to the Division of Public Transit and copies are mailed to the local planning and development council.
- ◆ Applicants advertise public notice providing comment period, complete their application and hold a public meeting, if necessary.
- ◆ Applicants submit completed applications for funding to the Division of Public Transit for its review.
- ◆ The Division reviews all applications submitted, then prepares a proposed program of projects. Priorities developed in the State Management Plan will be used to select projects for inclusion in the STIP.
- ◆ The Division submits the completed program of projects to the State Clearinghouse for Intergovernmental Review.
- ◆ The Division submits the completed program of projects to the FTA for review and approval.
- ◆ The Division executes project grant agreement between the State of West Virginia and FTA.
- ◆ The Division executes operating subsidy contracts and capital lease agreements with Section 5311 applicants approved as a part of the program of projects.
- ◆ New Section 5311 project year begins July 1.

## YEARLY TIMETABLE OF SECTION 5311 PROGRAM

December	Application packets are made available. (This includes capital assistance when funding is available.)
February	Deadline for submission of completed applications to the Division of Public Transit. All applications are reviewed for inclusion in the Program of Projects.
March-April	Program of Projects is prepared for submission to the FTA.
January	The Division of Public Transit advertises statewide Public Notice providing early notification to private providers that a new grant cycle will begin in late summer. (For example: January 2005 notice to private providers would offer early notification of the state fiscal year 2007 Section 5311 Program.)
April	Proposed Program of Projects is submitted to FTA for review and approval.
May - June	Approved Program of Projects returned from FTA. Division of Public Transit executes project grant agreements between the State of West Virginia and the U.S. DOT, FTA.
June 1 - June 30	Contracts for operating assistance are executed with each applicant approved as a part of the Program of Projects.
July 1	New project year begins.
July - December	All previous year financial audits are to be completed.

## **K. FUNDS TRANSFERS**

The transfer of funds between Sections 5307 and 5311 is done on the basis of need and availability.

The Division does not transfer Section 5310, 5316 or 5317 into 5311.

The State transfers Surface Transportation Program (STP) into Section 5311 on the basis of need and availability.

## L. COORDINATION

The Division encourages the coordination and distribution of publicly funded transportation services within the State, including, but not limited to, transportation services for senior citizens, for participants in headstart programs, for the disabled citizens and for private non-profit organizations.

On March 16, 2004, the Governor signed Executive Order No. 5-04, which created the **West Virginia Transportation Coordinating Council**. The membership includes representatives from the Bureau of Senior Services, Department of Education; Department of Health and Human Resources; the Fair Shake Network (a State advocacy program for the disabled); the public transportation community; consumers; the WV DOT, Division of Public Transit; and others. The Council studies issues pertaining to the effective and efficient use of transportation resources. The Division also provides RTAP resources to finance other coordination efforts. Additionally, Division staff participates in local, regional and statewide transportation activities that deal with coordinating transportation services.

Each year, Section 5311 applicants are asked to describe their coordination activities. In some areas of the state, there are few, if any, opportunities for coordination of services due to the lack of other providers. The Division requires Section 5311 subrecipients to participate in the development of locally developed coordinated public transit-human services transportation plans.

The Division encourages coordination to the maximum extent feasible.

## M. PRIVATE SECTOR PARTICIPATION

Each January, on behalf of the Section 5311 recipients, the Division publishes an *Early Planning* notification. This notice provides private transportation operators or possible new business entrants an opportunity to present their views concerning the development of local transportation plans and programs. The Division does this to ensure that each applicant complies with this requirement.

Further, it is FTA's 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."

The early planning notification, as well as the notice that an agency is applying for Section 5311 funding, is published in newspapers of general circulation in the county to be affected by the proposed project, including newspapers oriented to the minority community. Comments must be accepted for at least fifteen days from the date of publication.

The Division of Public Transit and its sub-grantees 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.

The Division of Public Transit, under the Section 5311 program, includes 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 nonurbanized areas and a wide variety of small operators (less than 30 buses) funded under the Section 5311 program have to be taken into consideration in the Division's ability to contract with private providers.

## **N. STATE ADMINISTRATION AND TECHNICAL ASSISTANCE**

The Division utilizes the maximum allowable funding (15%) for State Administrative support. Administrative tasks include:

- ◆ Project Selection (Application) Process
- ◆ Financial Management
- ◆ Statewide Transit Marketing and Transit Education Programs
- ◆ Technical and Management Assistance
  - Workshops/Seminars
  - Procurement
  - Financial
  - Grant Compliance
  - Project Monitoring
  - Specialized Technical Assistance
  - Safety
- ◆ Program Support
- ◆ Public Information Program
- ◆ Reporting Requirements

Needs determine the percentage of funds required for each task. Remaining state administration funds are used to offer training sessions for managers, drivers and other transit personnel; consultant contracts for the provision of system - specific technical assistance; and, planning and research studies.

The Division reserves the right to waive or change any of the above tasks that would best serve the interests of the state and/or the program.

## O. STATE PROGRAM MANAGEMENT

**General Procedures:** By West Virginia State Code, the West Virginia Department of Transportation, Division of Public Transit has been assigned the responsibility for the FTA Section 5311 Program. Within the Division, the Section 5311 Grant Coordinator is responsible for the day-to-day administration of the grant program. West Virginia's Section 5311 Program is managed in accordance with **FTA Circular 9040.1F – Nonurbanized Area Formula Program Guidance and Grant Application Instructions.**

**Procurement:** The Division procures vehicles and all other major capital items on behalf of its Section 5311 subrecipients. Under the Section 5311 Program, all equipment is purchased through the State of West Virginia's Purchasing Division and in accordance with the West Virginia Code and federal requirements. The Division ensures that all relevant federal clauses are included in the bid proposals. Statewide contracts are utilized for vehicles and communication equipment whenever possible.

Other major capital items may generally include communications equipment, shop equipment, facility construction, computer hardware, and spare parts. The Division will prepare detailed specifications that best reflect the system's procurement needs. The transit manager will be responsible for reviewing the specifications and submitting any comments or revisions to the Division. The systems are permitted to perform their own procurement, with oversight from the Division of Public Transit, on capital items under \$5,000. On all purchases, the Division is responsible for ensuring the federal requirements as stated in FTA Circular 4220.1F and 49 CFR §18.36 or 49 CFR §§19.40 through 19.48, Appendix A and that the State Purchasing Regulations are followed.

The Division is responsible for ensuring compliance with Pre-Award and Post-Delivery Review Regulations and Buy America. The Division also employs an on line inspector when revenue vehicles are being manufactured.

**Financial Management:** The Division expends and accounts for grant funds in accordance with West Virginia State Law which requires detailed records sufficient to permit tracking of funds to a level adequate to establishing propriety of expenditures and to permit preparation of reports. All payments from FTA are requested utilizing the Electronic Clearing House Operation (ECHO-Web). The Division follows the requirements established in FTA's ECHO-Web Users Manual. Also, financial records with supporting documentation and any other records are retained by the Division for a period of at least three (3) years from the date of submission of the final financial status report.

The Division submits to FTA an annual program status report, through TEAM-Web, for the program of projects of each active grant. These reports cover the 12-month period ending September 30<sup>th</sup> and will be sent, through TEAM-Web, to the FTA Region III office within 30 days after the end of the reporting period. Reports will consist of an updated program of projects and revised budget for each active project reflecting revised

project descriptions, changes in projects from one category to another and adjustments within budget categories; and, an updated Federal Financial Report (SF-425).

**Property Management:** The Automated Vehicle Inventory System (AVIS) establishes a permanent property record for each piece of equipment purchased under a FTA grant. This system assists the Division in maintaining satisfactory continuing control over project equipment. A manual back-up system is also maintained. Property records include information such as a description of the property, an equipment identification number, acquisition date, acquisition cost, FTA grant number and federal share of acquisition costs. Many other data fields are also included in the program to aid in the day-to-day management of property.

The system also provides the Division with a management tool to assist in the identification of equipment by either a specific federal grant or by an individual local agency. A series of reports can be generated based on grant requirements or other program management needs.

The Division holds the title to all vehicles purchased with Section 5311 assistance. Subrecipients hold the title to real property and facilities purchases/constructed with Section 5311 assistance.

**Annual Certification:** The individual transit operator shall conduct an annual inventory of its property and the results shall be verified and reconciled with the Division's property records. Any differences found by the inspection shall be investigated to determine the cause. Also in connection with the annual inventory, the Division shall determine the current utilization and continued need for the property.

When the sub-grantee is required to sell the property, proper sales procedures shall be used that provide for competition to the extent practicable and result in the highest possible return.

**Vehicle Use:** Project equipment shall be used for the provision of public transportation service to the general public. Equipment operated by social service agencies providing service to the general public are marked as open and marketed to the general public and the name of the transportation program must be general in nature and not reflective of a specific client group.

The subrecipients, in accordance with the established routes and services which were identified in their grant applications, shall operate the equipment.

The incidental use of Section 5311 funded vehicles for non-passenger transportation on an occasional or regular basis must not result in a reduction of service quality or availability of public service and must bear the cost of providing the service. A system may coordinate and assist in providing meal delivery for homebound persons on a regular basis if the meal delivery services bear the cost of the service and do not conflict with the provision of transit services or result in a reduction of service to transit passengers.

The provision of charter service is only allowed under the FTA exceptions. The use of vehicles for exclusive school bus service is prohibited.

All agencies are required to carry insurance in an amount sufficient to adequately cover the replacement value of the equipment. The Division is listed as co-insured on all policies to protect the federal interest.

**Vehicle Disposition:** The useful life of a vehicle is based upon how well a vehicle is maintained. Minimum normal service (useful) life for vehicles is stated below:

- Large, heavy duty transit buses (approximately 35' - 40', and articulated buses): 12 years service or 500,000 miles.
- Medium-size, heavy-duty transit buses (approximately 30'): 10 years service or 350,000 miles.
- Medium-size, medium duty transit buses (approximately 30'): 7 years or 200,000 miles.
- Medium-size, light-duty transit buses (approximately 25 – 35'): 5 years or 150,000
- Other light-duty buses such as small buses and regular and specialized vans: 4 years or 100,000
- Shop or support vehicles: 100,000 miles or 4 years

The Division considers the value of transit vehicles prior to the end of a normal service life to be based on a straight-line depreciation. Also, the vehicle service life standards refer to time in normal service, not time spent stockpiled or unavailable for regular transit duty.

Buses should be at the end of a minimum normal service life when considered for replacement. For purposes of Section 5311 bus replacements, the age of the bus to be replaced is its years of service at the time the new bus is introduced into service. Agencies may apply for replacement buses prior to the end of its useful life provided that the end of the useful life will be reached prior to placing the new vehicle in service.

The Division encourages that vehicles/equipment reaching the end of their normal useful life be retained in transit service if they are still functional. If the system wishes to replace a vehicle, the system is encouraged to offer it for transfer to any other public transit system wanting to continue to use it as a revenue or maintenance vehicle.

The system must first obtain permission from the Division before disposing of the equipment. When subrecipients sell the equipment, competitive sales procedures shall be followed to ensure the highest possible return. There are several methods that can be

used to dispose of capital items once the useful life has been reached. These include sealed bids, Ebay, local auto auction and public auction.

All sale proceeds (less actual expenses) submitted to the Division shall be deposited in a "Capital Replacement Account" to be used as match for future capital purchases. If the subrecipient provided the matching funds, proceeds from the sale of the equipment remains with the subrecipient.

Should an agency wreck a vehicle, the insurance proceeds are used to fix the vehicle or, if totaled prior to reaching its useful life, to purchase a new vehicle.

**Construction and Renovation of Facilities:** All construction and renovation projects will be conducted in accordance with FTA and state purchasing requirements. This includes a facility needs assessment; environmental impact statement; land acquisition; request and review of bids; and, contract award and construction oversight.

**Accounting Systems:** The Division is required to follow the accounting system as prescribed by the State of West Virginia. A computerized accounting system is utilized which categorizes expenditures and revenues by grant, object code and activity. This detail of transactions permits the Division to accurately account for and traces grant revenues and expenditures to the required level and assists in the preparation of reports.

**Audit:** The Division is audited as part of the Department of Transportation's annual audit, which is performed by an independent CPA firm. The audit is performed pursuant to the requirements of OMB Circular A-133. The Division resolves audit findings as they occur and notifies FTA of any problems.

**Closeout:** All grants are closed out with FTA immediately after all work activities for the program of projects are completed. A final financial status report, final budget and a revised program of projects are submitted to FTA.

**Subrecipient Audits and Project Monitoring:** Operating contracts are executed for a one year period, based on the state's fiscal year of July 1 through June 30, except in the case of repeat recipients who receive a "no-opinion" on the annual audit for the previous year. When a "no-opinion" is received by an organization, the Division executes a six - month operating contract and during that period, the agency is once again audited. The results of this audit will determine an organization's eligibility to receive continued and/or further operating assistance.

Recipient organizations receive funding on a monthly reimbursement basis. Reimbursements are made for actual expenditures and are limited to those expenses described in Appendix II of the Section 5311 Operating Assistance Grant Application.

Each recipient under the program submits Monthly Project Expenditure Reports detailing by line item the expenses incurred during the given month and the revenues collected through the farebox. In addition to the financial reporting information, recipients are

required to report monthly operating statistics, which include passengers, miles, revenue per mile, cost per mile, and cost per passenger.

To aid recipients, the Division has developed a Section 5311 Financial Package, which consists of a series of computer worksheets for completing the Monthly Project Expenditure Report and produces 3, 6, 9 and 12-month cumulative reports. Upon entering the yearly budget totals, the program compares budget to actual. The package also graphs total passengers by month for the project year.

A state requirement of the Section 5311 program is an annual audit. Transit systems are required to have an annual audit which shall be competitively procured and conducted in accordance with, at a minimum, generally accepted accounting principles (GAAP) and Governmental Accounting Standards Board (GASB) #34. If the subrecipient expends more than \$500,000 in federal funds during the contract period, then it shall arrange for a single audit to be performed in accordance with OMB Circular A-133. Costs of audits made in accordance with OMB Circular A-133 are allowable charges to the contract either as a direct cost or an allocated indirect cost, as determined by the applicable cost principles circulars. Private, non-profits receiving funding under the Section 5311 program are responsible for procuring their own audit through competitive bid.

All recipients are bound by contract and are accountable to the Division of Public Transit for all financial aspects of the project (Appendix O-1). Should the annual audit show that overpayments were made or there were ineligible expenses reported, the recipients, under the terms of the contract, are responsible for refunding to the Division any such costs. Upon receipt of the annual audit, the Division's fiscal officer reviews it, internal control and compliance findings are resolved and the federal share of any questioned costs are recovered and credited back to FTA.

**State Standards:** The Division does not set standards for productivity, cost-effectiveness or service. Systems are, however, encouraged to achieve a 12-percent fare box recovery rate. In years with available funds, the Division has rewarded top performing systems. In an effort to promote operational efficiency and effectiveness, the Division emphasizes six performance measures: operating cost per vehicle hour, operating cost per mile, operating cost per passenger trip, farebox recovery ratio, passenger trips per mile and passenger trips per hour.

**State Reporting Requirements:** The Division requires its Section 5311 subrecipients to submit a monthly Project Expenditure and Operating Statistics Report. In addition, 3, 6, 9 and 12 month cumulative reports are due to the Division. Other state reporting requirements include: Semi-annual DBE Activities Report; ADA Update (from fixed-route systems only) when major changes are made to the system's ADA service; audit reports; copies of all vehicle accident/incident reports and all passenger accident/incident reports; drug and alcohol MIS Reports; Charter Service Reporting Form (only if a system provides charter service); Proof of Insurance; Annual Certification of Use of Project Equipment and/or Facilities Certification; Facility Maintenance Report (from those systems with FTA-funded facilities); and annual cost allocation plan.

**Project Management:** The Division reserves the right to waive or change any requirements or policies that would best serve the interests of the state and/or the program.

**Program Guide:** To provide continuity in the program and as a ready reference, the Division has developed a Section 5311 Program Guide. Included in the notebook is information on the many federal requirements and state policies of the Section 5311 Program, an agency's responsibilities under the Section 5311 Program, maintenance requirements, disposition of vehicles and reporting forms. It is updated periodically to reflect any changes or additions.

**Project Monitoring:** During each state fiscal year, the Division of Public Transit performs on-site reviews of approximately half of all recipients of Section 5311 funds. These reviews consist of inspection of various records such as maintenance, personnel, marketing, procurement and financial. When possible, Division staff also ride routes and talk with passengers and drivers about the system and its services.

These reviews reveal the recipient's ability to properly manage federal grant funds as well as demonstrate the recipient's level of understanding of grant guidelines and requirements. These reviews also demonstrate areas in which the Division needs to provide additional technical assistance to the recipients.

A copy of the monitoring review form can be found in Appendix O-2. The Drug and Alcohol Testing Program Review Questionnaires can be found in Appendix O-3.

## **P. MAINTENANCE**

Vehicle maintenance is a key aspect to a successful system. The Division requires each subrecipient to develop a written maintenance plan for vehicles and facilities. Subrecipients must establish a preventative maintenance program that at least meets the manufacturers' minimum requirements. Suggestions on establishing a preventative maintenance program are in the Safety and Security Planning Information Directed to Effective Response (SPIDER). Records must be maintained showing routine maintenance along with all major repairs which may occur.

The Division will review and approve all maintenance plans and review maintenance records during site visits.

Lifts are cycled daily to keep them in good working order. This is to be documented during daily pre-trip inspections.

The Division requires subrecipients to conduct pre-trip inspections before placing a vehicle in service. The Division has purchased for all Section 5311 subrecipients an electronic pre- and post-trip inspection program. Inspections are conducted with a hand-held device made by Zonar Systems. Data from the devices are downloaded to the subrecipient's computer.

## **Q. CIVIL RIGHTS**

**Title VI:** FTA Circular 4702.1A requires the state to provide a Title VI submission, which is updated every three years, detailing how the Division and its Section 5311 subrecipients will comply with Title VI.

The State and its Section 5311 subrecipients must file a signed nondiscrimination assurance annually. The State submits its assurances to FTA and retains those it has received from its Section 5311 subrecipients.

**Limited English Proficiency (LEP).** Every three years, Section 5311 subrecipients conduct an LEP assessment to determine the need for non-English services. The assessment is based on four factors: the number and proportion of LEP persons served or encountered in the eligible service populations; the frequency with which LEP individuals come into contact with the service; the nature and importance of the service; and the resources available and cost.

**EEO:** The West Virginia Department of Transportation, Equal Employment Opportunity Office has submitted an EEO program on behalf of the West Virginia Department of Transportation to the Federal Highway Administration. For subrecipients meeting or exceeding FTA threshold (receipt of \$1 million or more FTA funds in a year **and** 50 or more employees), their programs are submitted to the Division.

**DBE:** The West Virginia Equal Employment Opportunity Office develops and submits the DBE Program on behalf of the entire WV Department of Transportation. The Division submits its annual DBE goal directly to FTA for FTA funds. All subrecipients must submit semiannual DBE reports to the Division for reporting to FTA and must create a level playing field on which DBEs can compete fairly for FTA-assisted contracts. The state reports DBE participation on a semi-annual basis to FTA.

The above programs are inspected during the Division's periodic on-site reviews. With each application, subrecipients file certifications regarding Affirmative Action, Equal Employment Opportunity, Disadvantaged Business Enterprise and Nondiscrimination. The Section 5311 application also requires each subrecipient to report any current or pending civil rights complaints.

## **R. SECTION 504 AND ADA REPORTING**

**SECTION 504:** Under Section 504 of the Rehabilitation Act of 1973, any program or activity receiving federal financial assistance cannot discriminate on the basis of a handicap. 49 CFR Part 27 contains the rules for implementing Section 504.

**ADA:** All subrecipients operating fixed-route service must prepare and submit an ADA plan update whenever there is a change in ADA complementary paratransit service. These reports are due each year to the Division during the month of January. Briefly, the reports detail the systems' efforts to meet the ADA complementary paratransit requirements.

Any complaints received by the Division concerning ADA and Section 504 service violations are promptly investigated. The Division works with the individual parties involved to find a resolution to the dispute. Failure to comply with ADA not only makes the transit system ineligible for federal funds but could also subject the system to private lawsuits.

Recipients are required to cycle wheelchair lifts before a vehicle is placed in service to ensure that they are kept in good working order. All drivers must be certified in CTAA-PASS (Passenger Service and Safety) Certification Training Course. The Division has established a network of trained and certified PASS instructors in the state. Presently, the Division fully funds this training program designed to teach safety and sensitivity techniques to drivers transporting elderly and disabled passengers.

In the application, systems must complete and file four certifications pertaining to Section 504/ADA. These are: Nondiscrimination Assurance; Assurance Concerning Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities Receiving or Benefiting from Federal Financial Assistance; Certification of Special Efforts; and, Certification of Equivalent Service. Certifications are valid for only one year and are kept on file at the Division's Office.

Subrecipients are required to comply with ADA service provisions. The Division reviews for compliance with all ADA requirements during site visits.

## **S. NTD REPORTING**

The Division reports rural data annually to the National Transit Database. The Division compiles the data from the Section 5311s' annual reports.

## **T. CHARTER RULE**

The amended charter regulations, 49 CFR Part 604 went into effect April 30, 2008. FTA prohibits grantees from using federally funded equipment or facilities if a registered private charter operator expresses interest in providing the service. Grantees are allowed to operate community based charter services excepted under the regulations. Notably, the regulations exempt Section 5311 grantees who are allowed to provide charter service for "program purposes." Subrecipients performing charter service must comply with the FTA charter regulations.

### **Charter Definition**

The regulation defines charter services as:

1. Transportation provided at the request of a third party for the exclusive use of a bus or van for a negotiated price. The following features may characterize charter service:
  - A third party pays a negotiated price;
  - Any fares charged are collected by a third party;
  - The service is not part of the regularly scheduled service or is offered for a limited period of time; or
  - A third party determines the origin and destination of the trip as well as scheduling.
2. Transportation provided to the public for events or functions that occur on an irregular basis or for a limited duration, and
  - A premium fare is charged that is greater than the usual or customary fixed route fare, or
  - The service is paid in whole or part by a third party.

### **Charter Exemptions**

Exemptions are not considered charter service and require no notification to registered charter providers, record-keeping, quarterly reporting, or other requirements. The exemptions are:

1. Recipients moving transit employees, contractors and government officials for transit purposes, including training;
2. Private charter operators that receive Federal assistance, with the following caveat: private charter operators that "stand in the shoes" of public transit agencies are covered per the applicability of the public agency;
3. Recipients performing emergency preparedness planning and operations;
4. Recipients responding to immediate emergencies;

5. Recipients in non-urbanized areas transporting its employees for training purposes;
6. Recipients of funds from Section 5311 providing transportation for “program purposes.” “Program purpose” is transportation that serves the needs of either human service agencies or targeted populations (elderly, individuals with disabilities, and or low income individuals).

### Charter Exceptions and Procedures

The charter regulation established six community based charter service exceptions. The table below lists the exceptions and the administrative requirements associated with each.

Exception	Procedure
<p><b>Exception 604.6</b> – Government officials on official government business (<b>GO</b>)</p> <p>(1) Is restricted to its geographic service area</p> <p>(2) Must not generate revenue, except as required by law</p> <p>(3) Is limited to 80 hours annually. May petition for additional charter hours.</p>	<p>Record the following information:</p> <ol style="list-style-type: none"> <li>1. Government organization’s name, address, phone number, and email address</li> <li>2. Date and time of service</li> <li>3. Number of government officials and other passengers</li> <li>4. Origin, destination, and trip length (miles and hours)</li> <li>5. The fee collected, if any</li> <li>6. Vehicle number (example, bus 102)</li> </ol> <p>Retain the record for three years.</p> <p>Complete and submit to DPT the Charter Service Reporting Form with the Monthly Project Expenditure Report.</p>
<p><b>Exception 604.7</b> – Qualified human service organizations (<b>QH</b>)</p> <p>Service to persons:</p> <p>(1) With mobility limitations related to advanced age,</p> <p>(2) With disabilities, or</p> <p>(3) With low income.</p> <p>Organization must register if it does not receive funds from programs listed in Appendix A of the charter regulation.</p>	<p>Ensure that the human service agency is qualified, that is, it receives funds from programs listed in Appendix A of the charter regulation or has registered on the FTA charter website at least 60 days before the charter request.</p> <p>Record the following information:</p> <ol style="list-style-type: none"> <li>1. QHSO’s name, address, phone number, and email address</li> <li>2. Date and time of service</li> <li>3. Number of passengers</li> <li>4. Origin, destination, and trip length (miles and hours)</li> <li>5. The fee collected, if any</li> <li>6. Vehicle number (example, bus 102)</li> </ol> <p>Retain the record for three years.</p> <p>Complete and submit to DPT the Charter Service Reporting Form with the Monthly Project Expenditure Report.</p>

Exception	Procedure
<p><b>Exception 604.8</b> – Leasing FTA funded equipment and drivers to a charter service operator (LE) only if the following conditions exist:</p> <ol style="list-style-type: none"> <li>1. The operator is registered on the FTA charter registration web site</li> <li>2. The operator owns and operates buses or vans in a charter service business</li> <li>3. The operator received a request for charter service that exceeds its capacity either of the number of vehicles operated or the number of accessible vehicles</li> <li>4. The operator has exhausted all of the available vehicles for all registered charter providers in your geographic service area.</li> </ol>	<p>Record the following information:</p> <ol style="list-style-type: none"> <li>1. Registered charter provider's name, address, telephone number, and email address</li> <li>2. Number of vehicles leased, types of vehicles leased, and vehicle identification numbers</li> <li>3. Documentation presented by the registered charter provider that the four conditions are satisfied.</li> </ol> <p>Retain the record for three years.</p> <p>Complete and submit to DPT the Charter Service Reporting Form with the Monthly Project Expenditure Report.</p>
<p><b>Exception 604.9</b> – When no registered charter provider responds to a notice posted on the FTA charter website (WN):</p> <ol style="list-style-type: none"> <li>1. Within 72 hours for charter service requested to be provided in less than 30 days, or</li> <li>2. Within 14 calendar days for charter service requested to be provided in 30 days or more.</li> </ol>	<p>Include the in the e-mail notice sent to the list of registered charter providers:</p> <ol style="list-style-type: none"> <li>1. Customer name, address, phone number, and e-mail address (if available);</li> <li>2. Requested date of service;</li> <li>3. Approximate number of passengers</li> <li>4. Type of equipment requested, bus(es) or van(s);</li> <li>5. Trip itinerary and approximate duration; and</li> <li>6. The intended fare to be charged for the service.</li> </ol> <p>If an "undeliverable" notice is received in response to its e-mail notice, fax the notice.</p> <p>If service is provided, record the following information:</p> <ol style="list-style-type: none"> <li>1. The group's name, address, phone number, and email address</li> <li>2. Date and time of service</li> <li>3. Number of passengers</li> <li>4. Origin, destination, and trip length (miles and hours)</li> <li>5. Fee collected, if any</li> <li>6. Vehicle number (example, bus 102)</li> </ol> <p>Retain all records (email sent, undeliverable notice, facsimile, record of charter) for three years.</p>
<p><b>Exception 604.10</b> – Agreement with registered charter providers</p> <p>If a new charter provider registers in the geographic service area, may continue to provider charter service for 90 days without an agreement with the newly registered charter provider.</p> <p>Any parties to an agreement may cancel at any time after providing a 90-day notice.</p>	<p>Record the following information:</p> <ol style="list-style-type: none"> <li>1. The group's name, address, phone number, and email address</li> <li>2. Date and time of service</li> <li>3. Number of passengers</li> <li>4. Origin, destination, and trip length (miles and hours)</li> <li>5. Fee collected, if any</li> <li>6. Vehicle number (example, bus 102)</li> </ol> <p>Retain the record for three years.</p>

Exception	Procedure
<p><b>Exception 604.11</b> – Petitions to the Administrator for:</p> <ol style="list-style-type: none"> <li>1. Events of regional or national significance</li> <li>2. Hardship (&lt;200,000 population only)</li> <li>3. Unique and time sensitive events that are in the public interest</li> </ol>	<p>For an event of regional or national significance, the petition shall describe how registered charter providers were consulted and will be utilized, include a certification that the recipient has exhausted all the registered charter providers in its service area, and submit the petition at least 90 days before the first day of the event.</p> <p>For a hardship request, the exception must be for deadhead time that exceeds total trip time from initial pick-up to final drop-off, including wait time and shall describe how the minimum duration would create a hardship on the group requesting the charter.</p> <p>For a unique and time sensitive event, the petition shall describe why the event is unique and time sensitive and would be in the public's interest.</p> <p>Record the following information:</p> <ol style="list-style-type: none"> <li>1. The group's name, address, phone number, and email address</li> <li>2. Date and time of service</li> <li>3. Number of passengers</li> <li>4. Origin, destination, and trip length (miles and hours)</li> <li>5. Fee collected, if any</li> <li>6. Vehicle number (example, bus 102)</li> </ol> <p>Retain the record for three years.</p>
<p>Note: Charter service hours include: time spent transporting passengers, time spent waiting for passengers and "deadhead" hours.</p>	

**Division Responsibilities**

The Division of Public Transit is responsible for monitoring compliance among its subrecipients. The Division addresses compliance with the charter regulation through monthly reporting and biennial site visits. The Division requires its subrecipients to attach a charter reporting form to their Monthly Project Expenditures Report as well as indicate the number of charters conducted during the month. The Division reports to FTA quarterly on subrecipient charter activity.

The Division will investigate any complaints or appeals. The penalty for violations can be ineligibility for further federal funding. It is critical that all transit systems review their practices and make sure they comply. All Section 5311 subrecipients file a Certification of Compliance with the Division of Public Transit as part of their annual grant application.

## U. OTHER PROVISIONS

**Special Labor Protection Warranty:** For West Virginia's Section 5311 subrecipients, the Special Labor Protection Warranty becomes part of all funding assistance contracts with the Division of Public Transit. As a part of their annual application for Section 5311 funding, each applicant must make assurance to the Division that all terms and conditions of the warranty will be met. The Division, as required by the Department of Labor, keeps these assurances on file. Each applicant must also provide the Division with a detailed listing of recipients, other eligible transportation providers and labor organizations in their area. Also, if a subrecipient is represented by a labor organization, the labor organization may become a part of the warranty by completing the labor organization letter.

Additionally, the Division has submitted, on behalf of all its subrecipients, the documentation required by Section A of the warranty. This documentation was filed directly with the U.S. Department of Labor.

**Environmental Protection:** All potential capital projects will be screened to determine which clearly meet the FHWA/FTA criteria for categorical exclusions or which may require additional documentation. The latter will be coordinated with the FTA Regional Office early in project development so that any necessary environmental analysis and review will not delay implementation. The Division will insure that all transportation plans, programs, projects and purchases conform to all applicable environmental guidelines.

**Buy America Provisions:** The Division includes a Buy America Certification form in its bid packages - for both rolling stock and non-rolling stock – for all purchases exceeding the Federal small purchase threshold, currently \$100,000. When applicable, Section 5311 subrecipients must comply with Buy America regulations and state so on their purchase orders.

**Pre-award and Post-delivery Audits:** The Division's procedures for complying with pre-award and post-delivery audit requirements follow.

After selection of a vendor, but prior to signing a contract, the vendor furnishes to the Division documentation proving that at least 60 percent of the equipment components are domestic and that the equipment's final assembly will be in the United States. The Division audits the documentation verifying that the provisions are met.

The Division also ensures that the proposed equipment meets the specifications and that the manufacturer is responsible with the capability to produce equipment that meets the specifications. A self-certification is received from the manufacturer stating that equipment built by them will meet the Federal Motor Vehicle Safety Standards.

The Division contracts and provides a resident inspector at the manufacturing site during production. The inspector monitors production of equipment and ensures compliance with the specifications issuing reports on the production.

During manufacture and after delivery but before acceptance the vendor furnishes to the Division documentation proving that at least 60 percent of the completed equipment components were domestic, that the equipment's final assembly was in the United States and that the vehicle did meet the Federal Motor Vehicle Safety Standards.

The Division audits this documentation to ensure compliance and receives and reviews the resident inspector's reports. After delivery, the Division performs a visual inspection and a road test verifying that the equipment was constructed and operates in accordance with the specifications.

**School Bus Restrictions:** FTA grantees are prohibited from providing exclusive school bus service unless the service qualifies and is approved by the FTA under an allowable exemption. Federally funded equipment or facilities cannot be used to provide exclusive school bus service. School tripper service that operates and looks like all other regular service is allowed. School tripper service is regularly scheduled mass transportation service that is open to the public and is designed or modified to accommodate the needs of school students and personnel. Buses used in tripper service must be clearly marked as open to the public, not carry designations such as "school bus" or "school special," and stop at regular bus stops. The Division ensures compliance with school bus restrictions during biennial site visits.

**Drug and Alcohol Testing:** Section 5311 subrecipients are required to comply with the FTA Drug and Alcohol Regulations (49 CFR Part 655). The Division contracts with a consultant to periodically review the systems' written drug and alcohol policies and conduct on-site monitoring reviews. The Division has sponsored training classes and granted RTAP scholarships for subrecipients to attend drug and alcohol education courses that will assist them in understanding and complying with the regulations.

**Drug-Free Workplace Requirements:** Pursuant to the Drug-Free Workplace Act of 1988, the Division of Public Transit certifies to FTA annually that a drug-free workplace exists. The Division posts the state's Drug-Free Workplace Act policy in the workplace and informs staff of the dangers of drug abuse and available counseling and other services.