

DEPARTMENT OF TRANSPORTATION**ASSISTANCE LISTING 20.500 FEDERAL TRANSIT – CAPITAL INVESTMENT GRANTS (Fixed Guideway Capital Investment Grants)****ASSISTANCE LISTING 20.507 FEDERAL TRANSIT – FORMULA GRANTS (Urbanized Area Formula Program)****ASSISTANCE LISTING 20.525 STATE OF GOOD REPAIR GRANTS PROGRAM****ASSISTANCE LISTING 20.526 BUS AND BUS FACILITIES FORMULA & DISCRETIONARY PROGRAMS (Bus Program)****I. PROGRAM OBJECTIVES**

Note: Program 20.507 is considered a “higher risk” program for 2021, pursuant to 2 CFR section 200.519(c)(2). Refer to the “Programs with Higher Risk Designation” section of Part 8, Appendix IV, Internal Reference Tables, for a discussion of the impact of the “higher risk” designation on the major program determination process.

Urbanized Area Formula Program (Section 5307)

The objective of the Urbanized Area Formula Program (5307 program) is to assist in financing the planning, acquisition, construction, preventive maintenance, and improvement of facilities and equipment in public transportation services. Operating expenses are also eligible under the 5307 program in urbanized areas with populations of less than 200,000 and, under some limited exceptions, to some urbanized areas with population of 200,000 and above.

Fixed Guideway Capital Investment Grants (Section 5309)

The objective of the Fixed Guideway Capital Investment Grants program (5309 program) is to provide funds for construction of new or extended fixed guideway systems, corridor-based bus rapid transit systems, and core capacity improvement projects that increase capacity by at least 10 percent in existing fixed guideway corridors that are at capacity today or will be in five years. In addition, the Pilot Program for Transit-Oriented Development (TOD) Planning provides funding for corridor-level comprehensive planning activities conducted in conjunction with new fixed guideway or core capacity improvement projects. The Expedited Project Delivery (EPD) Pilot Program aims to expedite funding of new fixed guideway capital projects, small starts projects, or core capacity improvement projects and to encourage innovative partnerships and funding mechanisms.

State of Good Repair Grants Program (Section 5337)

The objective of the State of Good Repair Grants program (5337 program) is to provide financial assistance for replacement, maintenance, and rehabilitation projects for existing fixed guideway (including rail, bus rapid transit, and passenger ferries) and high intensity motorbus (buses operating in high-occupancy vehicle (HOV) lanes) systems to maintain public transportation

systems in a state of good repair so that they operate safely, efficiently, reliably, and sustainably and offer balanced transportation choices that help to improve mobility, reduce congestion, and encourage economic development.

Buses & Bus Facilities Program (Section 5339)

The objective of the Buses and Bus Facilities program (5339 program) is to provide financial assistance to replace, rehabilitate, and purchase buses and related equipment as well as construct bus-related facilities through both formula and competitive selection procedures. The Buses and Bus Facilities program includes three tiers. The 5339(a) formula tier provides funds based on population, ridership, and vehicle mileage. The 5339(b) portion of the bus program is dedicated to a discretionary competition for buses, bus facilities and bus related equipment. The 5339(c) portion of the bus program is dedicated to the Low or No Emissions discretionary competitions for low or no emissions buses, bus facilities, and bus related equipment.

II. PROGRAM PROCEDURES

Federal transit law under Chapter 53 of Title 49, US Code, authorizes the Urbanized Area Formula program (49 USC 5307, including the competitive Passenger Ferry program), the Capital Investment Grants program (49 USC 5309), the Grants for Buses and Bus Facilities program (49 USC 5339, including the Grants for Buses and Bus Facilities formula program (5339(a)), the competitive buses and bus facilities program (5339(b)), and the Low or No Emission Grants program (5339(c))), and the State of Good Repair Grants program (49 USC 5337). The pilot program for TOD Planning is authorized by Section 20005(b) of the Moving Ahead for Progress in the 21st Century Act (MAP-21; Pub. L. 112-141, July 6, 2012). The EPD Pilot Program is authorized by Section 3005(b) of the Fixing America's Surface Transportation Act (FAST Act; Pub. L. No. 114-94, December 4, 2015).

Grants are awarded to public agencies on approval of applications for specific programs or projects submitted to the Federal Transit Administration (FTA). FTA monitors the progress of those projects through on-site inspections, telephone contacts, correspondence, quarterly or annual progress and financial status reports, and, where applicable, Triennial Reviews.

FTA is required to perform reviews and evaluations of 49 USC 5307 grant activities at least every three years. The most recent FTA Triennial Review Workshop Workbook provides guidance to FTA staff and recipients on the conduct of triennial reviews and is available at <https://www.transit.dot.gov/fy20-comprehensive-review-guide>. These reviews are conducted with specific reference to compliance with statutory and administrative requirements and consistency of program activities with (1) the approved program of projects and (2) the planning process required under 49 USC 5303. Copies of these triennial reviews are available from the regional offices. Regional office addresses and telephone numbers are available on the FTA website listed below.

Source of Governing Requirements

The programs in this cluster are authorized by 49 USC 5307, 5309, 5337, and 5339, as well as Section 20005(b) of MAP-21 and Section 3005(b) of FAST. Program regulations are at 49 CFR parts 601 through 665.

Availability of Other Program Information

Additional information is available on the FTA website at <http://www.fta.dot.gov/>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. **When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.**

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	Y	Y	N	N	Y	N

A. Activities Allowed or Unallowed

1. *Activities Allowed*

- a. Generally, under all programs, unless otherwise specified below, capital activities, as defined in 49 USC 5302(3), are eligible activities, including preventive maintenance and certain expenses related to crime prevention and security (49 USC 5307(a), 5309(b), 5337(b), and 5339(a)).
- b. Under the 5307 program, for projects awarded before October 1, 2012, operating expenses related to the conduct of emergency response drills with public transportation agencies and local first-response agencies, and security training for public transportation employees are eligible capital expenses (49 USC 5302(a)(1)(J)).

- c. Under the 5307 program, operating assistance for all urbanized areas under 200,000 population, and certain larger urbanized areas under limited exceptions, and planning for all urbanized areas (49 USC 5307(a)(2)). Additional flexibility for reimbursing operating expenses for all 5307 recipients has been extended in response to the COVID-19 public health emergency. FTA allowed all recipients of 5307 formula funds to use apportioned funds for operating expenses related to the emergency, beginning January 20, 2020, regardless of the size of the transit system or urbanized area. Additional detail and Frequently Asked Questions available at:
- FTA Formula Funding Under Emergency Relief Program
<https://www.transit.dot.gov/frequently-asked-questions-fta-grantees-regarding-coronavirus-disease-2019-covid-19>
 - CARES, CRRSAA & ER Funding Requirements
<https://www.transit.dot.gov/frequently-asked-questions-fta-grantees-regarding-coronavirus-disease-2019-covid-19#CARESER>
- d. Under the 5307 program, human resources and workforce development activities, including training, and training provided at the National Transit Institute or through a state-contracted training provider (49 USC 5314 (b) and (c)).
- e. Under the 5337 program, the only capital projects authorized are projects that implement a transit asset management plan and projects that maintain, rehabilitate, and replace transit assets for high intensity fixed guideway and motorbus systems in a state of good repair (49 USC 5337(b)).
- f. Under the 5339 program, the only capital projects authorized are bus, bus facilities, and bus-related equipment projects (49 USC 5339(a)).
- g. Under the 5339 program, workforce development (49 USC 5314(b)).
- h. Under the 5309 program, for projects awarded before October 1, 2012, the only capital projects authorized are those for
- (1) bus and bus facilities;
 - (2) new fixed guideways, including Small Starts;
 - (3) fixed guideway modernization; or
 - (4) corridor improvements (49 USC 5309(b)(1) through (b)(4)).
- i. Under the 5309 program, for projects awarded on or after October 1, 2012, the only capital projects authorized are those for

- (1) new or extended fixed guideway capital projects;
 - (2) corridor-based bus rapid transit projects; or
 - (3) core capacity improvement projects (49 USC 5309(b)).
 - j. Under the Pilot Program for TOD Planning, only comprehensive planning associated with a new fixed guideway or core capacity improvement transit capital project as defined in federal public transportation law (49 USC 5309(a)) is allowable (Section 20005(b) of MAP-21).
 - k. Under the EPD Pilot Program, only new or extended fixed guideway capital projects, small start projects, or core capacity improvement projects are eligible for funding that use a public-private partnership and will be operated and maintained by employees of an existing public transportation provider (Section 3005(b) of the FAST Act).
2. *Activities Unallowed*
- a. Under the 5309 and 5337 programs, the following:
 - (1) Mobility management;
 - (2) Operating expenses; and
 - (3) Alternatives analysis, including planning, with funds appropriated after fiscal year (FY) 2005 (49 USC 5309(b) and 5337).
 - b. Under the 5307 program, operating assistance in areas over 200,000, unless under certain limited exceptions (49 USC 5307(a)(2)).
 - c. Under the 5339 program, preventive maintenance, and rail-related activities (49 USC 5339).

H. Period of Performance

OMB Uniform Guidance section 200.343(b) requires nonfederal entities to liquidate all obligations incurred under the federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the federal award unless the federal awarding agency or pass-through entity authorizes an extension.

FTA Circular 5010.1E describes Period of Performance as “the time during which the recipient or subrecipient may incur new obligations to carry out the scope of work authorized under the Grant or Cooperative Agreement. FTA, or the pass-through entity, must include the start and end dates of the period of performance in the Grant or Cooperative Agreement, regardless of whether pre-award authority has been exercised. The start date is the Federal Award Date of an Award (5010.1E(I)(5)(a)(111)).”

Typically, for traditional programs an award for preventative maintenance or operating activities is not meant to be an open, ongoing award. These awards should contain no more than three apportionment fiscal years of funding. The award may be amended multiple times to account for the three fiscal years of funding allocated to the recipient. Any request may only be for the immediately preceding year and/or current year activities.

For CARES Act, CRRSAA, and formula (5307 and 5311) programs under Emergency Relief, all expenses must be incurred on or after January 20, 2020. Grants for operating assistance and preventive maintenance using CARES Act or CRRSAA funds may cover a period of time that corresponds to the expected spend-down rate of the funds, and the agency may establish the end of the period of performance of the grant accordingly.

I. Procurement and Suspension and Debarment

Recipients must use qualifications-based selection procedures (Brooks Act or an equivalent qualifications-based requirement of a state) when acting as contracting agencies to procure engineering and design-related services for construction of a transit project (49 USC 5325(b)(1)).