



## **Knoxville Knox County Planning**

## **Knoxville Regional Transportation Planning Organization**

## **Program Management Plan for 49 USC § 5310 – Enhanced Mobility of Seniors and Individuals with Disabilities**

January 2022

The Knoxville Regional Transportation Planning Organization (TPO) is the federally designated Metropolitan Planning Organization (MPO) for the Knoxville urban area, which is defined by the 2010 U.S. Census and includes portions of Knox, Anderson, Blount, Loudon, Roane, and Sevier Counties. The TPO is housed within Knoxville Knox County Planning. Knoxville Knox County Planning is the legal contracting agency for the TPO.

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## **Purpose**

The Program Management Plan (PMP) is a document that describes a designated recipient's policies and procedures for administering the Federal Transit Administration (FTA) Section 5310 Enhanced Mobility for Seniors and Individuals with Disabilities (hereinafter referred to as Section 5310 program) grant funding. The Knoxville Regional Transportation Planning Organization (TPO) (doing business as Knoxville Knox County Planning) was named the Knoxville urban area designated recipient of the Section 5310 program funds on October 23, 2013 by Governor Bill Haslam.

The PMP is intended to facilitate both the TPO's management and FTA's oversight by documenting policies and procedures for administering Section 5310 program funds. The primary purposes are to serve as the basis for the FTA to perform designated recipient-level management reviews of the programs and to provide public information on the administration of the programs. While a requirement of FTA, the PMP also covers the oversight requirements of the Tennessee Department of Transportation (TDOT) who has historically contributed funding to projects to help offset match requirements. As the designated recipient for the Section 5310 program, the TPO is required to have a PMP on file with the FTA Region IV Office and to update it regularly to incorporate changes in program management or new requirements. The TPO must provide an opportunity for review by stakeholders when it develops a new plan or significantly revises an existing plan.

The FTA Circular 9070.1G allows the designated recipient to establish arrangements to administer and conduct the competitive selection process. In order to ensure unbiased project evaluation and subsequent project management, the TPO will assemble an evaluation committee to help oversee the selection of projects. Successful applicants will be subrecipients to the TPO and will be subject to meeting the FTA/TDOT contractual, program, and reporting requirements.

## **Background**

On July 6, 2012, Moving Ahead for Progress in the 21st Century (MAP-21), was signed into law. Through MAP-21, the Federal Transit Administration's (FTA) Enhanced Mobility of Seniors and Individuals with Disabilities Program (49 U.S.C Section 5310) was reauthorized with some slight changes. This formulaic grant program is intended to enhance the mobility of seniors and those with disabilities by providing funding for projects serving the special needs of transit-dependent populations beyond traditional public transportation services and Americans with Disabilities Act (ADA) complementary paratransit services.

The 5310 program was established under previous federal transportation legislation (SAFETEA-LU), but has undergone important changes under MAP-21. First, funds were previously awarded directly to the States. In Tennessee, the Tennessee Department of Transportation (TDOT) received this funding, managed the program, and selected projects to be awarded funding. Under new provisions, funding for large urban areas (those over 200,000 in population) now goes directly to a locally selected Designated Recipient. Second, MAP-21 merged the Section 5317 New Freedom program with the Section 5310 program and expanded the list of eligible projects to include New Freedom type projects. However, it is mandatory that at least 55% of the funding go to traditional Section 5310 projects.

On December 4, 2015 the Fixing America's Surface Transportation (FAST) Act was enacted into law. The FAST Act maintained the Section 5310 program and continued to allocate annual funding to the Knoxville urban area. The TPO Section 5310 program will remain active as long as the FAST Act and any subsequent extension or new Act continues to allocate funding to MPOs.

### **Human Services Transportation Coordination Plan (HSTCP)**

Federal program guidance requires that any area wishing to utilize section 5310 funding must develop a locally adopted coordinated public transit Human Services Transportation Coordination Plan (Coordinated Plan or HSTCP). The purposes of the Coordinated Plan is to identify the transportation needs of individuals with disabilities, older adults, and people with low incomes, provide strategies for meeting those local needs, and prioritize transportation services for funding and implementation.

The minimum required plan contents include:

- An assessment of available services that identifies current transportation providers (public, private, and nonprofit),
- An assessment of transportation needs for individuals with disabilities and seniors. This assessment can be based on the experiences and perceptions of the planning partners or on more sophisticated data collection efforts, and gaps in service,
- Strategies, activities, and/or projects to address the identified gaps between current services and needs, as well as opportunities to achieve efficiencies in service delivery, and
- Priorities for implementation based on resources, time, and feasibility for implementing specific strategies and/or activities identified.

A key component of the planning process is the public outreach/stakeholder input into the Coordinated Plan. Partners, at a minimum, must include public, private, non-profit and human services transportation providers as well as representatives of target populations. The TPO reached out to members of the public through a variety of methods including doing surveys, holding meetings, presenting information at other agency meetings, and circulating the draft Coordinated Plan for review by interested agencies and the general public. A variety of agencies were invited to attend and many participated in the coordinated planning process. The Coordinated Plan was created with representatives from the TPO, Knoxville Area Transit, Knox County CAC Transit, East Tennessee Human Resource Agency (ETHRA), Knoxville Knox County CAC Volunteer (VAT) Assisted Transportation program, representatives from members of the TPO Technical Committee, and other regional human service agencies and non-profits. These stakeholders represent seniors, persons who are of low income, and individuals with disabilities. The TPO Executive Board approved the new Coordination Plan in December of 2020 and it can be found on the TPO's website [www.knoxtpo.org](http://www.knoxtpo.org).

### **Call for Projects**

The TPO will seek to hold a call for projects, typically, on an annual basis. However, if there are delays in the federal funding being appropriated by Congress this can occasionally result in the call for projects occurring every other year. The FTA Section 5310 funding is announced in a Federal Register notice. The exact date of this notice is contingent on when Congress passes a

transportation budget. Once the funding is announced in the Federal Register the TPO staff will initiate the application process. The TPO will hold a publicly advertised call for projects and post the application on-line on the TPO website. A TPO sub-committee will evaluate the applications received by the deadline as published in the funding announcement by the evaluation criteria listed in this PMP. Upon the initiation of a call for projects all pertinent materials regarding the selection of projects will be published on the [www.knoxtpo.org](http://www.knoxtpo.org) website.

### **Program Management Plan Goals**

The TPO's program management goals are to:

- Reflective of the Program Goal of FTA Section 5310 grant funds, improve mobility for seniors and individuals with disabilities throughout the Knoxville Urbanized Area by removing barriers to transportation services and expand the transportation mobility options available. Toward this goal, the TPO, as a designated recipient, will provide technical assistance to prospective subrecipients and recipients of Section 5310 funding for transportation services planned, designed, and carried out to meet the special transportation needs of seniors and individuals with disabilities.
- Meet the federal requirements associated with receiving Section 5310 FTA funding.
- Develop projects that encourage local coordination efforts.
- Facilitate the flow and appropriate level of Section 5310 program funding to the region by ensuring that the coordinated plan fully complies with the most recent federal Act's regulations and with the spirit and intent of the Section 5310 program.
- Establish a framework by which proposed projects requesting Section 5310 program funding can be solicited and selected through a fair and equitable process.
- Ensure that all components of the Plan/Program have benefited from a comprehensive public involvement effort that has effectively reached out to public, private, and nonprofit transportation providers, human service providers, and other stakeholders representing persons with disabilities, seniors, and the general public.
- Encourage not only coordination among services supported by the Section 5310 Program but also coordination among the broad array of community transportation services in the Knoxville region.

### **Responsibilities by Agency**

#### **Federal Transit Administration**

The FTA has, through its Region IV Office in Atlanta, federal oversight responsibilities over local public and specialized transportation assistance programs. Regional responsibilities include reviewing and approving grant applications, program management plans, and grant management activities.

#### **Knoxville Regional TPO**

As the metropolitan planning organization for the Knoxville urban area, the TPO will assume responsibility for the following duties regarding the administration of the Section 5310 program.

- Issuing the call for projects annually (assuming funding is made available).
- Notify eligible recipients of funding program availability.
- Convening the sub-committee to review applications.

- Developing project scoring/selection criteria.
- Certifying that each project selected is derived from the locally adopted Human Services Transportation Coordinated Plan.
- Conducting an analysis of each project application, and scoring each application accordingly.
- Selecting projects to be recommended for funding.
- Ensuring a list of projects/sponsors selected for funding is available for public review.
- Ensuring fair and equitable distribution of program funds.
- Incorporating the selected Program of Projects (POP) into the TIP and coordinating with TDOT for inclusion in the STIP.
- Applying for and receiving FTA grants for the 5310 program on behalf of subrecipients and performing on-going project management.
- Applying to TDOT for any available matching funds (these are not guaranteed).
- Ensuring adherence to federal program guidelines through subrecipient agreements.
- Receiving, verifying, and submitting for reimbursement all eligible project expenses.
- Passing through the reimbursements received from FTA for all eligible project expenses.
- Receiving quarterly reports/invoices from all subrecipients.
- Completing financial and status reports in the FTA electronic grants management system.
- Other such grant administrative actions as necessary to ensure project completion in accordance with the appropriate federal rules, regulations, and circulars.

### **Eligible Subrecipients**

The FTA Section 5310 Circular establishes two types of 5310 projects – traditional and non-traditional/other. Eligible subrecipients (as identified in FTA Circular 9070.1G) for each type are as follows:

- A. Traditional 5310 Projects (*at least* 55% of total 5310 funding)
  1. Private non-profit organizations. A non-profit organization is a corporation or association determined by the Secretary of the Treasury to be an organization described by 26 U.S.C. 501(c) which is exempt from taxation under 26 U.S.C. 501(a) or one which has been determined under State law to be non-profit and for which the designated State agency or urbanized area designated recipient has received documentation certifying the state of the non-profit organization.
  2. A state or local government authority that:
    - a. Is approved by the state to coordinate services for seniors and individuals with disabilities: or,
    - b. Certifies that there are no non-profit organizations in the area to provide these services.
  
- B. Non-Traditional 5310 Projects (*up to* 45% of total 5310 funding)
  1. A state or local government authority
  2. Private non-profit organizations
  3. Private for-profit organizations – *must certify that all funds are used in the provision of shared-ride services*

## **Eligible Activities**

Section 5310 covers a wide range of eligible activities, but the funding source has several specific requirements that determine how much of the region's funding can go towards specific activities. The FTA requires that 55% of a region's 5310 funds be used for traditional 5310 activities. Up to 10% may be used for administrative expenses by the designated recipient and the remaining funds may be used for non-traditional 5310 activities.

### **Traditional Section 5310 Projects**

At least 55% of program funds must be used on capital projects that are public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable. Capital expenses that are considered traditional projects include, but are not limited to:

- Vehicle purchase and/or rehabilitation (e.g. radios, wheelchair lifts, ramps),
- Passenger facilities (benches, shelters, and amenities),
- Intelligent transportation systems (ITS), and/or
- Dispatch and fare collection systems.

The TPO does not currently allow subrecipients to lease vehicles/equipment with Section 5310 funding.

***Mobility Management*** is an eligible capital cost. Activities may include: promotion and enhancement of access to transit services; short term management activities for planning/implementation of coordination; support of local coordination bodies and councils; operation of transportation brokerages to coordinate providers; provision of coordination services such as travel training and trip planning for customers; development and operation of one-stop travel call centers; eligibility management; operations and planning using intelligent transportation technology (GIS, GPS, coordinated vehicle scheduling/dispatch/monitoring, coordinated billing, and single smart customer payment systems). The purchase of technology is also an eligible capital expense.

### **Non-Traditional Section 5310 Projects**

Up to 45% of program funds may be used for public transportation projects that exceed the requirements of the ADA, improve access to fixed route service and decrease reliance on paratransit service, or provide alternatives to public transportation that assist seniors and individuals with disabilities with transportation. The following activities are examples of eligible projects that go beyond the minimum requirements of ADA:

- Expansion of paratransit service beyond the  $\frac{3}{4}$  mile required by ADA,
- Expansion of service hours for ADA paratransit beyond hours of fixed-route services,
- Incremental cost of providing same day service; incremental cost of making door-to-door service available to all ADA paratransit riders,
- Enhancing service by providing escorts or assisting riders through the door of their destination,



- Purchase of equipment designed for mobility aids that exceed the dimensions/weight ratings under the ADA and labor costs of aides to help drivers with over-sized wheelchairs,
- Installation of additional securement locations in public buses beyond ADA requirement feeder service to other transit services for which complementary paratransit service is not required under the ADA,
- Making accessibility improvements to transit and intermodal stations not designated as key stations or renovation to an existing station,
- Building accessible paths to bus stops that are currently inaccessible (curb cuts, sidewalks, pedestrian signals, or other accessible features),
- Improving signage or wayfinding technology,
- Other technology improvements that enhance accessibility for those with disabilities including ITS,
- Travel training, and/or
- Public transportation alternatives that assist seniors and individuals with disabilities with transportation.

**Public Transportation Alternatives** activities may include: ride sharing, and/or vanpooling programs; supporting the administration and expense related to new voucher programs for existing transportation services offered by human service providers (mileage reimbursement as part of a volunteer driver program, taxi trip, or trips provided by human service agency). Vouchers are an operational expense that requires a 50/50 match. Support of volunteer driver and aide programs is also an eligible activity (administration, safety, background checks, scheduling, coordination of passengers, and insurance associated with volunteer driver programs).

For a more exhaustive and/or detailed list of traditional and other project types, please refer to the FTA Section 5310 Circular C 9070.1G or contact TPO staff at [doug.burton@knoxtpo.org](mailto:doug.burton@knoxtpo.org).

In addition to the eligible project types mentioned above, the TPO's Program Management Plan for Section 5310 specifies the following requirements:

- Eligible matching funds must be identified and available,
- The primary focus of the proposed service or program must serve the target populations, namely seniors and individuals with disabilities, and
- The project must benefit the Knoxville MPO urbanized area.

### **Local Share and Local Funding Requirements**

The FTA Section 5310 program allows for a federal share of up to 80% for eligible capital costs, with a local match of 20%. The federal share of eligible operating costs may not exceed 50% of the net operating costs of the activity. All of the local share must be provided from sources other than Federal Department of Transportation (DOT) funds. Local share documentation stating the dollar amount available and source of local match is required as part of the grant application.

TDOT traditionally has provided half of the local match. As such, TDOT would provide half of the 20% local match requirement for a vehicle purchase. It is TDOT's matching funding policy that the TPO applies for and receives a contract/grant from FTA, before projects can be submitted for TDOT

funding. Therefore, the TPO must require that applicants show that they can provide the entire local match themselves. Then, if and when, TDOT awards matching funds the local match requirement will be adjusted accordingly. It should be emphasized, TDOT's match is not guaranteed.

Some examples of sources of local match which may be used for any or the entire local share include:

- State or local appropriations,
- Other non-DOT Federal funds that are eligible to be expended for transportation.
- Private donations,
- Revenue from human service contracts,
- Net income generated from advertising and concessions, and/or
- Income from contracts to provide human service transportation.

### **Use of Other Federal Funds**

For 5310, local match may be derived from other Federal programs that are eligible to be expended for transportation, other than from the DOT program.

Examples of types of programs that are potential sources of local match for 5310 include:

- Employment training,
- Aging,
- Medical,
- Community services, and/or
- Rehabilitation services.

To be eligible for local match for FTA funds, the other Federal funds must be used for activities included in the total net project costs of the FTA grant. Expenditure of other Federal funds for transportation outside of the scope of the project cannot be applied as a credit for local match in the FTA grant.

### **Application Review and Approval Process**

At the time a call for projects is issued, the TPO will post a grant application online at the TPO's website at [www.knoxtpo.org](http://www.knoxtpo.org). In submitting an application, the Applicant acknowledges they have read and are familiar with the requirements of the FTA Circular 9070.1G and the PMP.

TPO staff, working with a sub-committee from the Technical Committee, will score and rank the applications. Any Technical Committee member whose jurisdiction or agency applies for 5310 funds cannot participate on the evaluation team. Applications that are not consistent with the policies of the Coordinated Plan or the PMP are ineligible and applications that are incomplete will not be scored. Due to funding limitations, applicants may be approved for less funding than requested.

### **Project Selection Process**

1. Available Funds – The TPO staff will determine if sufficient funds are expected to be available to add new projects to the TIP.

2. Solicitation/Notification – Knoxville area public transportation operators and social service agencies are notified via web notification, legal ad or email, that applications are being accepted.
3. Project Applications – Interested agencies will complete a project application which will be posted online in a fillable format. Once completed, the application and the required attachments can be emailed to the TPO staff by the deadline stated in the original funding call for projects. If an applicant submits more than one application, the projects should be prioritized, in general, and by funding category. The information in any application is a public record. Applicants should not include information that may be regarded as confidential. The TPO staff will review all project applications to ensure eligibility and develop a list of project funding requests that will be presented to the application review sub-committee.
4. Application Review Sub-Committee Recommendations – The application review sub-committee will present a preliminary list of project funding recommendations to the Technical Committee.
5. Technical Committee Recommendations – The Technical Committee will review the application review sub-committee recommendations and develop its recommendation to the Executive Board.
6. Public Review – The Technical Committee and Executive Board meetings are public meetings and agendas are published on the TPO website approximately one week prior to the scheduled meeting. Notices of these public meetings are posted on the TPO website as well as published in major area newspapers and on Hispanic social media sites as available, at least 14 days in advance.
7. Executive Board Selection – The Technical Committee recommendations and public comments will be presented to the Executive Board of the TPO. The Executive Board will ultimately select the projects to receive funding, and likewise, to be adopted and listed in the Transportation Improvement Program (TIP) and the State of Tennessee TIP (STIP). The TIP and STIP are subject to all requirements associated with the TIP and STIP development schedules. A final list of projects approved will be published by the TPO and called the Program of Projects (POP).

### **Application Evaluation Criteria**

After all applications have been received (by the stated deadline), they will be scored (total of 100 points) and ranked by the Technical Committee sub-committee using the following criteria:

- Project/Description need: 25 points
- Specific Performance and Evaluation: 20 points
- Implementation: 20 points
- Project Budget: 10 points
- Organizational Preparedness and Technical Capacity: 15 points
- Outreach and Coordination: 10 points

### **Administration, Planning, and Technical Assistance**

The TPO will budget up to 10% of the total fiscal year apportionment to defray administration, planning, and technical assistance expenses. The TPO staff will primarily use these funds for the

administration of the Section 5310 program and to provide technical assistance to prospective recipients and recipients of Section 5310 funding.

### **Transportation Improvement Program (TIP)**

The TIP is a federally required document that lists every federal or regionally significant transportation project scheduled for funding within the Knoxville urban area over the next three-to-five years. The projects listed within the TIP include a variety of transportation modes: pedestrian, bicycle, freight related projects, and innovative air quality projects, as well as the more traditional highway and public transit projects. Once the list of projects has been approved, the projects will be added to the TIP by vote of the Executive Board.

### **Grant Award**

Once approved by the Executive Board and projects are amended into the TIP, TPO staff will then prepare and submit a formal grant application to the FTA for review and receipt of the grant award. The grant must be entered into the FTA on-line grant application making-system (TRAMS). FTA will review and approve the grant application both regionally (Atlanta Region IV Offices) and in Washington D.C. (headquarters). This process can take 2-6 months. Once the TPO receives an approved grant from FTA a matching funding request will be submitted to TDOT Multimodal Transportation Resources (MTR) office. A contract from TDOT MTR can take 2-4 months.

### **Estimated Available Funds**

The FTA apportions funds nationally by formula, based on a ratio of the number of senior citizens and disabled persons in an area to the number of senior citizens and disabled persons in all such areas. The formula uses the latest available Census data for those age 65 or older, and persons over the age of five having some form of disability. Under the program guidelines established by FTA, 60% of the total available 5310 Program funds are apportioned to designated recipients in large urbanized areas (UZAs) with populations of 200,000 or more (such as the Knoxville urban area), 20% of the funds are apportioned to the states for smaller urbanized areas with populations between 50,000 and 200,000. Finally, 20% of the funds are apportioned to the states for rural areas with populations of less than 50,000.

### **Transfers of Funds**

Federal regulations prohibit the transfer of FTA Section 5310 funds to other programs. However, at the state's discretion, 5310 funds allocated to smaller areas may be transferred to large UZAs if the Governor certifies that the mobility needs of seniors and the disabled are being sufficiently met in those smaller regions. Funds from Federal Highway Administration (FHWA) programs (such as STBG, CMAQ, etc.) may be transferred to the FTA Section 5310 program at the TPO's discretion. The TPO does not have any plans for transferring of funds.

### **Civil Rights**

Prior to the receipt of any awarded funding, Section 5310 recipients will certify compliance with the requirement of Title VI, Equal Employment Opportunity (EEO) and Disadvantaged Business Enterprise (DBE) (if applicable) laws and regulations. Title VI of the Civil Rights of 1964 prohibits discrimination on the basis of race, color, and national origin for programs and activities receiving

federal financial assistance. Six federal laws enacted between 1964 and 1991 comprise the federal Equal Employment Opportunity (EEO) program, which prohibits job discrimination based on race, color, religion, sex, national origin, age and disability, and provides for monetary damages in cases of intentional employment discrimination.

**Title VI-Non-discrimination**

To ensure compliance with DOT civil rights regulations (49 CFR 21.5(2), 49 CFR 21.5(7) and 49 CFR 21.9(b)), and the DOT Order on Environmental Justice, FTA requires funding recipients to document that FTA funds are distributed without regard to race, color, and national origin. To fulfill this requirement, the TPO and its subrecipients are required to maintain a Title VI program in compliance with FTA Circular 4702.1B entitled “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to include the components outlined in the table below.

Prior to the receipt of any awarded funding, subrecipients shall submit the following information to the TPO. The TPO will keep the information on file as required by FTA and the TPO’s Title VI program.

<b>FTA Title VI Program Requirements</b>			
<b>Provision</b>	<b>Federal Circular Reference</b>	<b>Citation in DOT Title VI Regulations or Reference to the DOT Order on Environmental Justice</b>	<b>Reporting Requirement</b>
Title VI Complaint Procedures	Chapter IV Part 2	49 CFR 21.9(b)	A copy of the applicant's procedures for filing a Title VI complaint
Record of Title VI Investigations, Complaints or Lawsuits	Chapter IV Part 3	49 CFR 21.9(b)	A list of Title VI investigations, complaints or lawsuits filed with the agency since the last submittal
Access to Services by Persons with Limited English Proficiency (LEP)	Chapter IV Part 4	49 CFR 21.5(b) and the DOT LEP Guidelines	A copy of the agency's LEP plan or alternative framework for providing access to services
Notifying Beneficiaries of their Rights Under Title VI	Chapter IV Part 5	49 CFR 21.9(d)	A notice that the agency is in compliance, and procedures the public may follow to file a complaint
Inclusive Public Participation	Chapter IV Part 9	DOT Order 5610	A summary of public outreach undertaken since the last submission and steps to ensure minority access to these activities

**Disadvantaged Business Enterprise (DBE) Requirements**

If the TPO and/or any subrecipient receives more than \$250,000 annually in direct FTA funds, exclusive of vehicles and/or salaries, a DBE plan is required. If the annual amount is less than \$250,000 only good faith efforts are required. A DBE Plan outlines ways the TPO and its subrecipients will try to engage minority and women owned businesses in contracts or large

purchases. From time-to-time the TPO may meet the minimum \$250,000 threshold in direct FTA funding. In such a case, the DBE requirements not only apply to the TPO, but to any subrecipient. Currently, the TPO does not meet the \$250,000 DBE Plan threshold. If the TPO meets the threshold in the future it will inform the subrecipients on how to comply with the regulations. Typically, subrecipients receiving funding to purchase vehicles will be exempt. The DBE regulations typically cover programs that receive operating funding and have expenses beyond transportation salaries.

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

A formal EEO program is required of any grantee that both employs 50 or more transit-related employees (including temporary, full-time, or part-time employees) and 1) requests or receives in excess of \$1 million in capital and/or operating assistance or 2) requests or receives in excess of \$250,000 in planning assistance in the previous Federal fiscal year. The program requirements detail what must be included, such as designation of personnel responsibilities, a workforce analysis (including an identification of areas of underutilization), goals and timetables, an assessment of past employment practices, proposed remedies for problem areas, and a monitoring and reporting system. Program updates are required every three years. Formal communication mechanisms should be established to publicize and disseminate appropriate elements of the program, such as the EEO policy statement. The policy statement should be posted, for example, on bulletin boards, near time clocks, or in the employee's cafeteria.

The required EEO components are outlined in Chapter 3 of FTA Circular 4704.1, Equal Employment Opportunity Program Guidelines for Grant Recipients. The major required components of the EEO program are shown in the table on the following page. When applicable, compliance with all EEO requirements will be verified as part of the Section 5310 funding application process.

### **Section 504 and ADA Reporting**

Section 504 of the Rehabilitation Act, which preceded the Americans with Disabilities Act (ADA), prohibits discrimination of individuals on the basis of handicap by recipients of Federal financial assistance. The TPO will monitor all projects funded by Section 5310 funds for compliance with all Section 504 and ADA rules and regulations. Accordingly, all applicants will be made to certify that their respective projects comply with all applicable rules and regulations related to Section 504 and ADA. Whenever possible, this compliance will be verified during the 5310 project application process. Any ADA violation by a subrecipient of 5310 funding may be grounds for termination of the funds.

The ADA, in addition to requiring the provision for complementary paratransit service (public transit providers), requires that vehicles and facilities be accessible. ADA regulations require that public and private entities providing transportation services maintain in operative condition all accessibility features such as lifts, elevators, ramps, securement devices, signage and communication equipment. Review of the subrecipient's facilities, maintenance procedures and vehicles will include a review of facility accessibility and vehicle accessibility including lifts and other accessibility features. Training materials for operators will be reviewed.

<b>Equal Employment Opportunity Reporting Requirements</b>		
Statement of Policy	Chapter III - 2(a)	EEO program must include a statement regarding EEO policy affecting all employment practices for all persons regardless of race, color, creed, national origin, sex or age. At its discretion, the agency may include disability.
Dissemination	Chapter III - 2(b)	Communication mechanisms should be established to publicize and disseminate the agency's EEO policy, as well as appropriate elements of the program to its employees, applicants and public.
Designation of Personal Responsibility	Chapter III - 2(c)	The EEO program manager should be identified by name in all internal and external communications regarding the agency's EEO program.
Utilization Analysis	Chapter III - 2(d)	Identify those job categories where there is an underutilization or concentration of minorities and women in relation to the labor market.
Goals and Timetables	Chapter III - 2(e)	Specific goals with timetables must be set to correct any underutilization of affected classes of persons identified in the utilization analysis.
Assessment of Employment Practices to Identify Causes of Underutilization	Chapter III - 2(f)	Recipients, subrecipients and contractors must conduct an assessment of present employment practices to identify those practices that operate as employment barriers and unjustifiably contribute to underutilization.
Monitoring and Reporting System	Chapter III - 2(g)	Establish a successful EEO program by incorporating an internal monitoring reporting system to include: EEO accomplishments, identifying departments which have failed to achieve goals or implement affirmative action; and provide a factual database for future projections.
Complaints	Chapter IV	Maintain on file all complaints including: a statement of the issue, description of the investigation, summary of interviews and the investigator's findings and recommendations. These files will be reviewed upon request.

### **Service Equivalency**

Providers of demand response transit services must utilize accessible vehicles, as defined at 49 CFR 37.7 or meet the applicable equivalent service standard. For agencies providing demand response transit services to the public (open to anyone) and utilizing 5310 funds as part of their operations, the services funded by 5310 must be equivalent in regard to the agency's other schedules, response times, geographic areas of service, hours and days of service, reservations capability, constraints on capacity or service availability, and restrictions based on trip purpose unless approved by the TPO. Demand response public transit service providers must sign a Certificate of Equivalent Services as part of their application. Any agency, regardless of whether being open to the public or not, that receives financial assistance under Section 5310 must have pre-approval by the TPO before procuring any non-accessible vehicle, and further, must have demonstrated in writing, during the application process, that they have accessible services available whether directly or through a coordinated effort with another appropriate entity.

### **Federal Certifications and Assurances**

Before the FTA awards federal assistance through a grant certain Certifications and Assurances (C&A) are required to be signed by the grantee. The TPO, though Knoxville Knox County Planning, sign

these C&A with every grant. A condition of the C&A is that the TPO must make sure that any and all subrecipients adhere to these regulations. The TPO accomplishes this as part of the contract between the subrecipient and Knoxville Knox County Planning. Each subrecipient will sign a contract that states they will adhere to the FTA's most recent C&A. Each subrecipient should familiarize themselves with the C&A before they sign the contract. The FTA, the TPO, and the subrecipient understand that not every provision will apply to every subrecipient or every project. Nor will every provision of each C&A within a single Category apply. The type of subrecipient and its project will determine which C&A apply. It is important that the subrecipient review the C&A annually.

<https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>

### **Subrecipient Contracts**

The TPO will develop and execute contracts with all subrecipients awarded funding under the Section 5310 program. The subrecipient contracts for capital projects will detail the scope of work of the project. Contracts for operating assistance will outline the type of service provided by the subrecipient, the time period covered by the agreement and the service area. All subrecipient contracts will include the funding amounts awarded. Any expenses incurred in excess of the budgeted amounts are the sole responsibility of the subrecipient. The TPO will visit the physical location of each new subrecipient prior to entering into a contract for FTA Section 5310 funds to ensure the subrecipient has a complete understanding of the program requirements and responsibilities of all partners.

### **Debarment and Suspension**

The TPO will not enter into any contract with an agency that has been debarred or suspended from participating in federally assisted transactions or procurements. The TPO will verify that its subrecipients are not excluded or disqualified by checking SAM Exclusions (at SAM.gov).

### **DUNS Number**

It is required that each agency receiving funding submit its DUNS number to the TPO. The FTA requires that this number be on any contract for funding. The DUNS Number assignment is free for all businesses and is required by the federal government for contracts or grants.

### **Compliance Monitoring**

The TPO will monitor vehicles purchased with these funds until they are removed from service. The TPO will monitor subrecipients' compliance with federal requirements through:

- Careful scrutiny of plans, reports and certifications submitted as part of the application process, under the provisions of Section 5310 regulations, and discussion with subrecipients to clarify all requirements,
- Review of quarterly reports (capital) and invoices (operating) sent for payment of costs incurred, and
- Annual (Operating) and Triennial (Capital) desk audits and site visits, with annual vehicle inspection/vehicle related documentation done annually.



The TPO staff shall retain records of all meetings, visits and contacts with subrecipients. Throughout the project's progress, the TPO staff will offer subrecipients program guidance and provide or arrange for technical assistance, should this be needed. A complete Compliance Monitoring section is found in a later section of the PMP.

### **Ongoing Reporting Requirements**

Subrecipients are required to report on various items with each quarterly invoice/report. The requirements may include the following program measures:

- Number of one-way passenger trips per month,
- Passenger revenue (if applicable),
- Net cost per passenger (if applicable),
- Quarterly vehicle miles traveled,
- Revenue service hours provided (if applicable),
- Any vehicle significant maintenance issues (if applicable), and
- Any Title VI complaints and their status.

A brief narrative of quarterly activities shall also be submitted by the subrecipient for operating contracts (with invoices) to the TPO. Quarterly invoices will be developed on an individual basis and will include items as per the contract.

### **Financial Management**

The TPO must be assured that funds for the grant are correctly managed and that the project(s) are being implemented. The subrecipient needs to have financial management procedures in place. Accounting systems must be able to allocate revenues and expenses, in an acceptable manner.

### **Accounting Process**

All funding for expenses incurred under the Section 5310 Program is provided on a reimbursement basis. The TPO will reimburse the subrecipient with federal and any applicable state funds based on the proportions identified in the grant agreement. Subrecipients will retain the original receipts for all eligible project expenditures. In the case of capital projects, subrecipients must attach copies of vendor invoices to reimbursement requests. Subrecipients receiving operating assistance should retain copies of all vendor invoices.

### **Audit**

Subrecipients are required to obtain audits of their expenditures and operations annually by an independent audit firm if their agency has expended in excess of \$500,000 in federal funds. A copy of the audit report needs to be submitted to the TPO. The subrecipient is required to resolve any audit findings.

### **Procurement (vehicles)**

As FTA subrecipients, all Section 5310 funding recipients must use procurement procedures reflecting applicable state and local laws and regulations, subject to the FTA requirements that the procedures ensure competitive procurement and conform to applicable federal law, including 49 CFR Part 18 – specifically Section 18.36, and FTA Circular 4220.1F, "Third Party Contracting Guidance."

The TPO highly encourages subrecipients to purchase vehicles off of the TDOT Multimodal Transportation Resources Vehicle Vendor list. This list of vehicles and vendors have already gone through an approved FTA procurement process. The list is included in each new call for projects.

If a subrecipient wishes to purchase a vehicle themselves using local procurement methods, the procedures used by subrecipients must ensure competitive procurement and conform to applicable federal law. FTA requirements and standards apply to the procurement of all supplies, equipment and services funded by FTA. Purchasing of equipment may be done directly by the subrecipient, with TPO staff oversight and pre-authorization. The subrecipient will ensure that purchases are made competitively and that every contract that the subrecipient enters into contains all applicable federal and state clauses, signed and forwarded to the TPO prior to placing an order for vehicle(s) with a vendor. Applicants will be asked to submit their procurement policies and procedures to the TPO prior to moving forward with the procurement. The TPO will work closely with the subrecipient throughout the procurement process and provide technical assistance as is deemed necessary.

### **Indemnity & Insurance**

The subrecipient agrees to indemnify and hold harmless Knoxville Knox County Planning, as agents, officers, and employees from and against any and all loss, damage, liability or expense, including attorney's fees, for all claims for damages or account of or by reason on bodily injury, including death, which may be sustained or claimed to be sustained by any person, and all damages to property, caused by or arising out of, or claimed to have been caused by or arising out of the use of the assets. The subrecipient will be required to maintain insurance coverage. If the subrecipient is receiving operating or mobility management funding it must maintain Comprehensive General Liability and/or Excess Liability policies. If the subrecipient is receiving capital funding to purchase vehicles it must maintain Automobile Liability insurance. Knoxville Knox County Planning shall be listed as an "additional insured" under each of the required policies.

If the subrecipient acquires a vehicle, it must provide Knoxville Knox County Planning proof of insurance coverage before the vehicle can be placed into service. The subrecipient or insurance carrier shall provide Knoxville Knox County Planning with a minimum of thirty (30) day notice prior to cancellation or expiration of any insurance policy (see Vehicle section for more details).

## **Vehicles**

### **Satisfactory Continuing Control**

FTA maintains an interest in property and equipment purchased with federal funds for the useful life of an item or until it is removed from service. For that reason, subrecipients are required to maintain records on any of these items. The TPO is responsible for ensuring that the subrecipient is maintaining continuing control over vehicles and that the vehicles are being utilized for eligible purposes. Compliance under the continuing control requirement includes maintaining insurance for all real property, facilities, equipment, and vehicles. Good maintenance practices require that items be insured against theft, loss or damage and that warranty standards are followed.

### **Vehicle Order and Delivery**

Once a subrecipient is advised by the TPO (in writing) that they can proceed with ordering a vehicle(s) they must generate a purchase order directly with the approved vendor. When the vendor notifies the subrecipient that the vehicle(s) are ready to deliver they must contact the TPO who will arrange to come inspect the delivery. TPO staff must come out and inspect the vehicles before payment/reimbursement can be issued and before any vehicles are put into use. Staff will collect the original vendor delivery receipt, a copy of the original purchase order and proof that the vehicle(s) have been added to the subrecipient's appropriate insurance policy (if available). Vehicles cannot be put into service unless the TPO receives proof of insurance. Starting mileage will be documented. Once the vehicles have been registered the subrecipient will be asked to provide the TPO with a copy of the registration.

### **Property Management (Vehicles)**

The TPO will hold the ORIGINAL vehicle(s) title(s) until the subrecipient wants to take the vehicle(s) out of service. Subrecipient acknowledges that the TPO is responsible for the federal and state interest in the vehicle(s) and will continue to monitor them until they are taken out of service. The TPO will be responsible for keeping an accurate database that contains all vehicle inventory records.

Reports with the database will contain vehicle year, make, and model; date accepted; included equipment; location; federal grant number, inspection data, mileage, type of funding used to purchase the vehicle and the name, address, and phone number of the subrecipient who has daily control over the vehicle.

### **Vehicle Use**

For subrecipients who purchase vehicles using Section 5310 program funds, vehicles must be maintained and used for the intended purpose. Maximum use of vehicles is encouraged, first for program related purposes, then other federal programs and project purposes. Vehicles procured using Section 5310 funding may not be used for charter services, unless those services are exclusively designed to meet the needs of targeted populations (the elderly, those with disabilities and/or those of low-income) and this must be pre-approved by the TPO. Federal requirements prohibit the use of FTA funds for exclusive school bus transportation for school students and school personnel. The regulations do permit regular service to be modified to accommodate students along with the general public. This service is commonly referred to as "tripper service." Any vehicle purchased with Section 5310 program funds allocated by through the TPO must use that vehicle to predominately serve the Knoxville urban area. Service in which at least one leg of the trip starts or ends in the urban area is allowed. Special "one-time" trips outside the urban area are allowed.

FTA encourages maximum use of vehicles funded under the program. In all instances the vehicles must be used first for program related needs. Federal policy does allow some incidental use if the other program or project uses are currently or were previously supported with Federal funds. This is considered incidental as long as it does not interfere with the program use outlined in the application.

The TPO will require all subrecipients to submit quarterly vehicle use reports (miles, hours, passengers, and trip purpose) to ensure that vehicles are used in accordance with program requirements.

### **Insurance**

The subrecipient agrees to carry insurance on vehicles, equipment, and facilities to cover the federal interest and state interest in the asset. Proof of insurance coverage must be presented to Knoxville Knox County Planning before the vehicle can be placed into service. Knoxville Knox County Planning must also be listed as an “additional insured” on the policy. The following amounts are minimum coverages that must be provided.

1. If the subrecipient is governed by the Tennessee Governmental Tort Liability Act (T.C.A. § 29-20-101 et seq.), the following insurance coverage is required:
  - a. Bodily injury or death of any one person in any one accident, occurrence or act at a minimum of \$300,000.00 per person.
  - b. Bodily injury or death of all persons in any one accident, occurrence or act at minimum of \$700,000.00 per accident.
  - c. Injury to or destruction of property of others in any one accident at a minimum of \$100,000.00.
  
2. If the subrecipient is not covered by the Tennessee Governmental Tort Liability Act (T.C.A. § 29-20-101 et seq.), then the following insurance coverage is required:
  - a. Personal Injury Liability at a minimum of \$300,000.00 per person and \$1,000,000.00 per incident.
  - b. Property Damage Liability at a minimum of \$300,000.00 per accident.
  - c. Comprehensive Coverage with a maximum deductible of \$500.00.
  - d. Collision Coverage with a maximum deductible of \$500.00.
  - e. Uninsured Motorist Coverage with a minimum of \$50,000.00 per person and \$100,000.00 per accident
  
3. Additionally, the subrecipient shall comply with provisions of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 USC 4012a(a), with respect to any project activity involving construction or an acquisition having an insurable cost of \$10,000.00 or more.
  
4. This insurance shall be in effect at all times while the vehicle is used for public transportation services or service vehicle purposes in operations. The subrecipient shall furnish Knoxville Knox County Planning with evidence of such insurance at the time the vehicle is delivered to the subrecipient and annually on the anniversary date of the delivery of the vehicle. Upon demand by Knoxville Knox County Planning, the subrecipient shall provide proof of insurance at any time during the term of useful life of vehicle.

### **Maintenance**

The TPO is responsible for ensuring that all vehicles purchased with federal funds are maintained in good operating order. The TPO will require each subrecipient to submit a vehicle maintenance plan. Subrecipients can use the manufacturer’s suggested maintenance schedules as the basis of this maintenance plan, but they also need to identify in a separate document how the maintenance

responsibilities fit into the overall agency and who is responsible for the maintenance efforts. The TPO may require subrecipients to perform pre-trip inspections of vehicles. The TPO will audit maintenance records of vehicles, and will inspect vehicles during on-site visits. Vehicle maintenance needs to be performed by an appropriately certified mechanic and the subrecipient is responsible for ensuring maintenance personnel utilized are appropriately certified for each vehicle they maintain.

### **Disposal of Vehicles at the End of Useful Life**

No vehicle purchased through the TPO can be disposed of without prior approval. Section 5310 subrecipients will follow FTA and TDOT guidelines for determining when a vehicle has reached the end of its useful life. A subrecipient may dispose of or utilize the vehicle for another purpose when the vehicle has attained its useful life. Useful life varies depending on the vehicle type. The TPO primary uses the FTA Circular 5010.1E, "Grant Management Requirements" for vehicle useful life guidelines. However, if TDOT provided matching funds the TPO must also consult with the State Management Plan.

Useful life of rolling stock (vehicles) begins on the date the vehicle is placed into service and continues as long as it is in service in which the TPO, FTA, and TDOT have a vested interest in the operation of the vehicle. If a vehicle is out of service for an extended time period, the useful life must be adjusted to reflect a new threshold. The TPO, FTA, and TDOT allow vehicles to be replaced once a vehicle has met the useful life age or mileage standard, whichever comes first. As a general rule, the following are FTA and TDOT minimum thresholds for vehicle replacements:

- Large, heavy-duty transit buses (35'-40') – 12 years and/or 500,000 miles,
- Small size, heavy-duty transit buses (30') – 10 years and/or 350,000 miles,
- Medium-size, medium-duty transit buses (25'-35') – 7 years and/or 200,000 miles,
- Medium-size, light-duty transit buses (25'-35') – 5 years and/or 150,000 miles, and
- Other light-duty vehicles (vans, sedans, and light duty buses) – 4 years and/or 100,000 miles

If a vehicle is out of service more than thirty (30) days, the TPO should be notified. For the period of time the vehicle is out of service, the transit provider must ensure that the time does not count toward the minimum useful life and accounting must stop the depreciation calculation. Additionally, incidental service mileage does not count toward the minimum useful life mileage. Once permission has been granted by TPO, a new ending date will be assigned for the vehicle's useful life.

If any vehicle is inspected by the TPO and it is determined to be unfit for service, then the vehicle will be taken out of service and not returned to revenue service until the problem is resolved by the subrecipient. Reasons for a vehicle to be defined as "out of service" include, but are not limited to:

- Repairs to major components of the vehicle,
- Wheelchair lift not functioning properly,
- Accident and/or pending lawsuit, and/or
- Natural Disaster.

Subrecipients are required to dispose of vehicles that are federally and state funded, in part or whole, that are no longer needed. TPO funded vehicles (purchased with federal and state funding) may not be disposed of or transferred without advance written permission from the TPO. In most instances the TPO will have to seek concurrence with TDOT.

A subrecipient must get the TPO's permission prior to disposing of a vehicle (at the end of its useful life). Prior to disposal the subrecipient must:

- Written request for approval by the TPO,
- Written disposal plan that meets FTA and TDOT guidelines,
- Submit the Vehicle Identification Number (VIN), Make, Model, Year, and Mileage,
- A request to the TPO for the vehicle's Title,
- Provide two (2) appraisals, and
- If the vehicle has been destroyed, then the insurance documentation is required rather than the appraisals.

The subrecipient shall submit the final disposal paperwork within ninety (90) days of receiving the Title from the TPO. If there is a delay in the disposal process, then written justification must be provided. Following the disposal of the vehicle, the subrecipient must submit to the TPO the following documents:

- Final Disposal of Capital Asset Vehicle Information Sheet,
- Copy of receipt or Bill of Sale,
- Copy of front and back of Tennessee title with both signatures,
- Copy of check (if applicable),
- Copy of the deposit slip if equity received is over \$5,000, and
- Letters (if needed) for all vehicles sold equal to or over \$5,000 stating where the funds will be allocated.

Any proceeds from the sale must be used for transportation purposes, which can include match for a new vehicle. The TPO will work with the subrecipient to determine how the re-use can meet federal and state guidelines. If a vehicle sale is for more than \$5,000 extra documentation must occur. Any proceeds greater than \$5,000 ***must be*** documented to FTA and used to sustain the TPO's overall transportation grant program. The TPO will work with the subrecipient to see if all proceeds can remain with that agency, but there is a possibility that any revenues over \$5,000 may need to be returned to the TPO.

#### **Disposal of Vehicles Prior to the End of Useful Life**

If any vehicles are to be removed from service prior to the end of their useful life, the subrecipient must have approval from the TPO before doing so. All subrecipients must submit the following:

- Written request for approval by the TPO,
- Written disposal plan that meets both FTA and TDOT guidelines,
- Submit the Vehicle Identification Number (VIN), Make, Model, Year, and Mileage,

- A request to the TPO for the vehicle's Title, and
- Provide two (2) appraisals.
- Justification for the disposal, if the justification for early disposal is based on extenuating maintenance issues, the request must also include:
  - Description of the maintenance issues encountered,
  - The number of days in the shop within the past twelve (12) months,
  - The total cost of repairs since the vehicle was purchased along with a copy of any repair bills over \$1,000, and
  - Maintenance records for the vehicle for the TPO to review.

The TPO will try to work with the subrecipient to replace the vehicle if one is still needed. However, there is a possibility the subrecipient will have to remit the federal and state share of the un-depreciated value of the vehicles to the TPO to be returned to the pool of funds to be awarded. If the subrecipient is in good standing they may apply for funding at the next call for projects.

### **Transfer of Vehicles to Another Program or Agency**

Regardless if a vehicle has or has not reached the end of its useful life, the TPO must approve any transfer for a vehicle to be used in another program. From time-to-time there may be a situation where the vehicle may no longer be needed for the service it was granted. In such cases, the vehicle may be made available for transfer to another of the agency's programs or to another non-profit or transit agency. If a vehicle has not met its useful life (as defined by FTA and TDOT) the new program must be in-keeping with the Section 5310 regulations and the Knoxville urban area Human Services Transportation Coordination Plan. If the vehicle has met its useful life it is still the preference of the TPO that it be used in a manner that supports the goals of the Human Services Transportation Coordination Plan. The subrecipient must provide to the TPO a demonstrated need to use the vehicle for another purpose (especially if it has remaining useful life). The TPO may be required to get approval by FTA and/or TDOT before the transfer can be made.

### **Other Provisions**

#### **Program Reporting Requirements and Monitoring**

The TPO is responsible for ensuring certain reports are provided to FTA. In order to provide these reports for activities using 5310 funds spent by the TPO and its subrecipients, it will be necessary for the TPO to collect certain data, quarterly, from each subrecipient. The reports that the TPO will then provide to FTA annually are:

1. Status Report – the TPO will submit status reports that include a narrative for each approved grant that contains active projects. The narrative should include project descriptions, changes in projects from one category to another and adjustments, if applicable.
2. Significant Civil Rights Compliance – Issues occurring during the year (such as Title VI, Equal Employment Opportunity (EEO) or Disadvantaged Business Enterprise (DBE) (if applicable) program complaints against recipients or subrecipients) will be addressed in the report. The TPO will also report notable accomplishments or problems involving Section 5310 subrecipients.

3. Milestone Activity Reports – The subrecipient will provide quarterly updates for milestone dates that will be compiled by TPO staff as part of the report. If the estimated completion date for the grant has changed, the revised date will be provided with an explanation as to why the date has changed.

### **Environmental**

Section 5310 funding applications may need to include National Environmental Protection Act (NEPA) documentation. This most often occurs for construction projects or capital related projects other than vehicle purchases.

### **Buy America**

Any capital item valued over \$150,000 is subject to federal Buy America requirements. Under the Buy America provision, applicable to FTA grants, FTA funds may not be obligated unless steel, iron and manufactured products used in FTA-funded projects are produced in the United States. Rolling stock (including train control, traction power and communication equipment) must be assembled in the United States and have a 60% domestic content to be considered a United States product. The TPO, in accordance with FTA regulations, requires as a condition of responsiveness, that a bidder submit with its bid a completed Buy America certificate. If subrecipients purchase rolling stock for use in Section 5310 projects that meets the Buy America threshold, it must conduct pre-award and post-delivery reviews to ensure compliance with specifications and the Buy America requirements. Subrecipients will be required to have signed Buy America certificates for any qualifying procurements.

### **Restrictions on Lobbying**

Any recipient of federal grants and contracts exceeding \$100,000 must certify compliance with U.S. DOT's Restrictions on Lobbying before it can receive funds. As a condition of receiving federal funding, recipients cannot use federal assistance to pay the costs of influencing any officer or employee of a federal agency, member of Congress, officer of Congress or employee of a member of Congress, in connection with making or extending a Grant Agreement or Cooperative Agreement. In addition, the TPO is required to impose the lobbying restriction provisions on its subrecipients and third-party contractors. All subrecipients applying for Section 5310 funding must submit certification of compliance as part of the contracting process.

### **Drug-Free Workplace and Drug and Alcohol Testing**

All recipients of FTA funding are required under 49 CFR part 32 to maintain a drug-free workplace for all employees and to have an anti-drug policy, awareness program and training program as applicable.

In compliance with certain DOT regulations, the TPO has a zero-tolerance policy for drug and alcohol use. Subrecipients must also comply with the relevant DOT regulations.

FTA subrecipients that receive only 5310 program assistance are not subject to FTA's Drug and Alcohol testing rules, but must comply with Federal Motor Carrier Safety Administration (FMCSA) rule for employees who hold Commercial Driver's Licenses (CDL) (49 CFR Part 382).



Additionally, if the duties of any personnel meet the duties defined as safety sensitive they will have to comply with the FMCSA. If any operating projects will be using vehicles that require a CDL, under the Federal Motor Carrier Safety Administration's regulations the carrier will be required to implement the regulations.

The Federal Motor Carrier Safety Administration's regulation under 49 CFR Part 40 requires:

- Pre-employment testing for drivers who perform a safety sensitive function,
- Reasonable suspicion testing when there is reasonable suspicion of use of alcohol and/or controlled substances,
- Random testing using a scientifically valid method, and
- Post-accident testing for fatal accidents and moving violations requiring vehicle towing or medical attention.

FTA defines safety sensitive duties as:

- Operating a passenger service vehicle, whether or not it is in service,
- Operating a vehicle that requires a Commercial Driver License (CDL),
- Controlling dispatch or movement of a vehicle,
- Performing maintenance on a passenger service vehicle, and
- Carrying a firearm for security purposes.

Subrecipients will be required to submit their drug and alcohol policy as part of the application process.

### **Safety and Security (As applicable)**

Federal regulations now mandate the development of formal safety and security plans for all programs. The TPO will provide assistance and direction to subrecipients with the intention of making sure that the subrecipient recognizes the need for and benefit of a safety and security plan. FTA's authority in the area of safety is set forth in 49 USC 5329. Under this section FTA may conduct investigations into safety hazards and security risks. FTA and the TPO are both concerned with the safety and security of transit passengers and transit workers.

While conducting the on-site compliance part of the monitoring program the TPO staff should be aware of any safety or security issues at the subrecipient's property.

In the event of a natural disaster or homeland security event all transportation vehicles in the region may be called into use. Preplanning for such events allow quick response. In any event organizations should develop contacts at the local emergency response agency.

The FTA Section 5310 Circular describes the contents of a plan as follows:

- The Board of Directors (or equivalent entity) must approve the agency safety plan,

- The plan must include methods for identifying and evaluating safety risks throughout all elements of the agency,
- The plan must cover strategies to minimize the exposure of the public, agency personnel and property to hazards and unsafe conditions,
- A process and timeline for reviewing and updating the safety plan annually must be in place,
- Safety performance targets will be established by the FTA, in consultation with the grant community,
- Each agency must have an adequately trained safety officer who reports to the general manager, and
- The plan must include a comprehensive staff training program for operations personnel and personnel directly responsible for safety.

Manufacturers of vehicles and equipment will have procedures available for the safe operation of their products and for the training of operators. Certain transit providers may be affected by Federal Motor Carrier Safety Regulations and state motor carrier regulations.

Insurance carriers expect and may require that specific equipment and operational practices be followed and that workplace safety guidelines be developed. Emergency preparedness procedures should be coordinated with other local agencies and governments.

### **Compliance Monitoring**

The TPO will provide a thorough review of the compliance practices of those subrecipients that are utilizing FTA Section 5310 funding. Matching funds from the TDOT will also be monitored.

The TPO has developed a compliance monitoring program to assure compliance with Federal and State requirements and to assist subrecipients with their efforts to improve project management and administration. In general, receipt of any Federal grant carries contractual requirements for reporting on the project's progress and for monitoring the use of grant monies. Under the 5310 Program, the TPO is directly responsible for monitoring a subrecipient/subrecipient's ability to manage, control, and administer Federal funds.

Every year, subrecipients will be reviewed with an online assessment (questionnaire). Capital subrecipients will certify that they are still in possession of the vehicle(s) and the vehicle(s) are still being used for the original purpose assigned, are being maintained, and are fully insured. Capital subrecipients will be monitored until the vehicle(s) are removed from service.

Capital subrecipients will be visited on-site every three years. Operating subrecipients will be visited on-site every two years. If the TPO participates in an FTA or TDOT program review of any sub-recipient that can be counted as an on-site review. Note: due to COVID-19 in person (on-site) reviews were suspended for a period of time. The review schedule is for sub-recipients in good standing. The TPO can insist on additional reviews, if and when, it determines a subrecipient is no longer in good standing.

\*Good standing will be reflected by:

- Demonstrated compliance with regards to Title VI, EEO, and Disadvantage Business Enterprise (DBE – if applicable) laws and regulations. Demonstrated compliance with the Americans with Disabilities Act (ADA) and a Drug Free Workplace. These include maintaining and following written complaint procedures and reporting if indicated,
- Program goals are being met and reflect the stated scope of services,
- Submission of quarterly reports/invoices that are complete with the appropriate information and submitted in a timely fashion (with 30 days of the end of the reporting quarter),
- Maintaining adequate liability insurances as required in the contract,
- Maintaining all equipment in safe and working order, maintaining required ridership and maintenance logs as required,
- Follows federal procurement requirements, if applicable, and
- Submitting other compliance related documentation as requested by the TPO.

An annual review will be scheduled for subrecipients with federally funded vehicles. This review will cover examination of the vehicles, maintenance and ridership/usage logs, and other documentation as deemed appropriate. Every 3<sup>rd</sup> year this review can be done in conjunction with the compliance monitoring site visit. If the TPO deems necessary, the annual review can be conducted through online means.

The reviews or monitoring visits are structured as a technical assistance effort, not a compliance audit. There is presumption that subrecipient seeks to be in compliance, but complexity of requirements can lead to unintentional non-compliance. The review and monitoring visits are based on FTA and TDOT oversight of the TPO, the TPO, in turn, must assure that sufficient monitoring of subrecipients is occurring.

The TPO team will assist each subrecipient under review with technical assistance concerning any of the requirements of any particular circular, rule, regulation or law and will render any assistance to help remedy findings, if necessary. The subrecipient will be notified by email approximately 30 days in advance of the review.

The subrecipient is required to submit the desk review documents 15 days prior to the scheduled site visit. Subrecipient materials that will be requested for the desk review and site visit are listed in Sections II and III. Documents should be submitted in an electronic format whenever possible.

For subrecipients who have been reviewed before, the TPO will only seek those documents/plans that have been updated or are not on file from the application process or previous compliance review. The TPO team may request additional information from the subrecipient if necessary to complete the review. Following each site visit, the review team will correspond with the subrecipient by outlining the areas reviewed, compliance deficiencies (if any), actions necessary to remedy any deficiency, and the timeframe for corrective action(s) as appropriate.

However, it may be necessary to issue a formal letter if deficiencies are identified. If it is necessary to issue a formal letter, the subrecipient will have 30 calendar days to respond and list what steps were taken to address the identified deficiencies. A follow-up letter will be issued once the

subrecipient demonstrates compliance or in consultation with the TPO has agreed to a schedule to remedy any remaining deficiencies. The letter will document which findings have been satisfactorily addressed and which are scheduled for remedy.

## Desk Review

The desk review is performed in the TPO offices and reviews information required to be in the final grant application and ongoing reporting requirements.

Please send the following documents as appropriate to the TPO at least fifteen (15) days before the scheduled site visit: **Subrecipients may indicate in their response if the most recent version of any of the requested documents are already on file with the TPO.** Please contact the TPO if you are unsure of what we are requesting or would like to review what is on file. The following documents will be required as part of the application process (where applicable).

- Most recent audit (must be within 3 years): If financial audit denoted any findings please provide remediation documents.
- Certification of the agency's status as a: private nonprofit organization, a human resource agency, or an eligible local government (a: Is approved by a state to coordinate services for seniors and individuals with disabilities, or, b: Certifies that there are no nonprofit organizations readily available in the area to provide service.
- List of members of the governing body and their contact information (if not contained in the audit).
- Proof of current liability insurance.
- Cost allocation Plan (if applicable).
- Title VI:
  - Title VI Plan, if agency has a free-standing plan,
  - A detailed description on how Title VI requirements are met (this may be included in an agency's employee handbook),
  - Materials that relate to pass through of funds without regard to race, color, or national origin and that minority populations are not being denied the benefits of or excluded from participation in programs.
- Equal Employment Opportunity (EEO) (if applicable):
  - If subrecipient receives in excess of \$1,000,000 in operating and/or capital grants, or \$250,000 in planning assistance in the previous Federal fiscal year, *and* has 50 or more transit-related employees, an EEO program is required.
  - If program is not required, review files for EEO practices.
- DBE Plan and Report (if applicable):
  - If subrecipient receives more than \$250,000 annually, exclusive of vehicles, plan is required. If amount is less than \$250,000 only good faith efforts are required.
  - Review any documents or reports submitted to TPO if applicable.
- Americans with Disabilities:
  - Review compliance plan as applicable.
- Drug Free Workplace and Drug and Alcohol Testing:
  - Review copy of Drug-Free Workplace policy and/or program.
  - Review program for Compliance with Federal Motor Carrier's Safety Administration Rule for Commercial Driver's Licenses or program for Drug and Alcohol Testing (if applicable).
- Performance Measures:
  - Review quarterly reports against proposal.

- Policy and Procedures/Employee Handbook if the above-mentioned policies/programs/practices are incorporated into them and not separate documents.
- Brochure, if any, that describes the agency's program (s).
- Safety and security plan/practices:
  - Review subrecipient's plan.
- Environmental as applicable:
  - Review Categorical Exclusion documentation, if necessary.
- Labor:
  - Davis Bacon forms (construction contracts only).

Additional requirements for subrecipients that used FTA Section 5310 funds for vehicles:

- Written Vehicle Maintenance Plan that includes schedules; this may simply reflect the manufacturer's suggested maintenances schedule.
- Transportation policies (including vehicle disposition policy).
- Vehicle inventory(make, model and year, vin number, accessible vs. non-accessible).

### **Site Visit**

During the on-site review, the following will be reviewed:

- Review of desk audit and any findings, discuss remediation if applicable,
- Postings: Title VI, EEO, ADA, complaint procedures, Public Accountability Notice, and
- Review of any related policies and procedures not reviewed at the desk audit (as applicable)

Additional requirements for subrecipients that used FTA Section 5310 funds for vehicles:

- Vehicle Inspection Reports,
- Vehicle Maintenance Log Reports,
- Vehicle ridership/usage logs,
- Vehicle inspections, and
- Current vehicle insurance.

### **Closeout Procedures**

The TPO will use a two-step process to move a Federal grant to closeout.

#### **Subrecipient Closeout (Operating Contracts)**

Subrecipients are responsible for writing "Final Invoice" on the last invoice the subrecipient submits. This process begins when all activities in the agreement are complete or all funds in the agreement are fully expended. A final status report should accompany the final invoice. The final status report should state whether all project goals have been accomplished. Finance will initiate closeout of the individual project once final payment is made.

#### **TPO and FTA Closeout**

The TPO is responsible for administering the Federal grant closeout through the FTA's TrAMS system. The TPO will make any necessary adjustments to the project budget and conduct a final grant project

audit as required by A-133. Grant closeout procedures are outlined in the following Circulars: Section 5310, 9070.1G, and Grant Management Requirements, 5010.1E, as revised.

“The TPO must initiate close-out of a grant when all approved activities are completed and/or applicable Federal funds expended. All close-out documentation must be submitted within 90 days of the completion of all activities in the grant. This requires notifying FTA via letter or email that the grant is ready for close-out. The TPO should electronically submit the following in TrAMS as part of the closeout process: 1) a final budget reflecting actual project costs by scope and activity; 2) a final Federal Financial Report; 3) a final narrative MPR indicating the actual completion date of each activity; a discussion of each activity contained in the final budget and list of project property purchased under the grant; 4) a request to deobligate any unexpended balance of Federal funds; and 5) any other reports required as part of the terms and conditions of the grant.”

The Milestone Report will include information on the completion of the individual projects as well as the total project. All project records will be maintained by the TPO for three years.

### **Ongoing Deficiencies/Non-compliance**

In the event of serious or ongoing deficiencies and/or a subrecipient refusing to come into compliance, the TPO may request that FTA assist it in instituting a variety of actions. FTA’s Circular 5010.1E, Grant Management Requirements, outlines methods for Grant Close-Out and Suspension and Termination in Chapter III, Grant Administration. Section 5(b) covers Close-Out by FTA and Section 6 covers Suspension and Termination. Among the reasons a grant may be closed-out by FTA are either failure to comply with the terms or conditions of the Grant Agreement or other Federal requirements and/or failure by the subrecipient to make reasonable progress to complete approved grant activities. A grant may be suspended or terminated for a variety of reasons including the failure to comply with the conditions of a grant including failure to make reasonable progress. Additionally, FTA can pursue a partial termination of a grant where funds are no longer needed to accomplish grant purposes. Possible remedial actions as a result of a subrecipient not meeting its performance requirements are as follows:

- A warning letter to the agency and the Board of Directors that identifies deficiencies, the necessary remedies, and a timeline for corrections,
- Suspension of grant fund payments,
- Ineligibility for any additional grant funds either within the current program or future programs.
- An audit of the agency to determine compliance with contractual obligations,
- Termination of the grant contract(s), and/or
- Appropriate legal action by the TPO to enforce the contract.

Other approaches are possible but it is important that the TPO determines what action it will take if projects are not being implemented, if grants funds are not being used, or if grant funds are being misused. The subrecipient’s report will present the TPO’s determination and the required remedial action.