

NOTICE OF PROPOSED GUIDANCE DOCUMENT

DTIM BTLRRH 81

Pursuant to Wis. Stat. s. 227.112, the Wisconsin Department of Transportation is hereby seeking comment on DTIM BTLRRH 81, 49 U.S.C. Sections 5304, 5310, 5311, and 5339, a proposed guidance document.

PUBLIC COMMENTS AND DEADLINE FOR SUBMISSION

Comments may be submitted to the Wisconsin Department of Transportation for 21 days by:

1. Department's website: <https://appengine.egov.com/apps/wi/dot/guidance-docs?guidDocId=DTIMBTLRRH81>

2. Mailing written comments to:

Division of Transportation Investment Management
Wisconsin Department of Transportation
4822 Madison Yards Way
PO Box 7913
Madison, WI 53707- 7913

WEBSITE LOCATION OF FINAL GUIDANCE DOCUMENT

The final version of this guidance document will be posted at wisconsindot.gov to allow for ongoing comment.

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DRAFT – 10/12/18

Wisconsin Department of Transportation
Bureau of Transit, Local Roads, Railroads and Harbors

State Management Plan

For the following federal programs:

- 49 USC § 5304 – Statewide Planning
- 49 USC § 5310 – Enhanced Mobility of Seniors
And Individuals with Disabilities
- 49 USC § 5311 – Formula Grants for Rural Areas
- 49 USC § 5339 – Bus and Bus Facilities

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Definitions

The following definitions, acronyms, and abbreviations are used throughout this document:

Capital project means the acquisition, construction, reconstruction, and improvement of facilities, vehicles, and equipment of a transit system (see Trans 6.02(1) and Trans 8.02(1), Wis. Admin. Code).

Mobility management means the use of multiple transportation providers to offer more efficient and effective transportation service(s) to all individuals.

Operating project means transit system expenses relating to labor, fringe benefits, materials and supplies, utilities, insurance, purchased transportation services, license fees, and lease expenses (see Trans 4.04(1) and Trans 8.02(9), Wis. Admin. Code).

Subrecipient means local or regional public transit agencies eligible to receive federal or state transit funds through the Wisconsin Department of Transportation; for the federal section 5310 program, non-profit organizations and private providers of public transportation are also considered eligible subrecipients.

Wis. Admin. Code means Wisconsin Administrative Code, which includes all permanent administrative rules in force in the State of Wisconsin.

Wis. Stats. means Wisconsin Statutes, which includes all the laws passed by both houses of the state legislature and signed by the governor that are in effect in the State of Wisconsin.

ADA	-	Americans with Disabilities Act of 1990
CFR	-	Code of Federal Regulation
CSR	-	Comprehensive site review
DBE	-	Disadvantaged business enterprise
DOA	-	Wisconsin Department of Administration
DFWA	-	Drug-Free Workplace Act
DTIM	-	Division of Transportation Investment Management
EAP	-	Employee Assistance Program
ECHO	-	Electronic Clearing House Operation
EEO	-	Equal employment opportunity
FAST Act	-	Fixing America’s Surface Transportation Act
FFATA	-	Federal Funding Accountability and Transparency ACT (FFATA)
FHWA	-	Federal Highway Administration
FMCSA	-	Federal Motor Carrier Safety Administration
FSRS	-	FFATA Subaward Reporting System
FRA	-	Federal Railroad Administration
FTA	-	Federal Transit Administration
HSV	-	Human service vehicle
IBA	-	Intercity Bus Assistance Program

JARC	-	Job Access and Reverse Commute Program
MAP-21	-	Moving Ahead for Progress in the 21st Century
MPO	-	Metropolitan planning organization
NTD	-	National Transit Database
OBOEC	-	Office of Business Opportunity, Equity, and Compliance
OMB	-	Office of Management and Budget
PTASP	-	Public Transportation Agency Safety Plan
RTAP	-	Rural Transportation Assistance Program
SSO	-	State Safety Oversight
STIP	-	State Transportation Improvement Program
TAM	-	Transit Asset Management
TEAM	-	Transportation Employment and Mobility Program
TIP	-	Transportation Improvement Program
TPA	-	Third-party administrator
TrAMS	-	Transportation Award Management System
U.S.C.	-	United States Code
USDOT	-	United States Department of Transportation
WETAP	-	Wisconsin Employment and Transportation Program
WisDOT	-	Wisconsin Department of Transportation

FORWARD

The state management plan is a document that describes the Wisconsin Department of Transportation's policies and procedures for administering the state-managed portions of the Federal Transit Administration's (FTA) section 5304, 5310, 5311, and 5339 programs. Each state is required to have an approved plan on file with the appropriate Federal Transit Administration regional office, and to update it regularly to incorporate new requirements or changes in program management.

The Wisconsin Department of Transportation is issuing a revised state management plan that covers each of the federal programs, as follows:

- **49 USC § 5304 Statewide Planning** provides funding for local and regional transit planning studies.
- **49 USC § 5310 Enhanced Mobility of Seniors and Individuals with Disabilities** provides funding to states to assist non-profits and others in meeting the transportation needs of seniors and individuals with disabilities. The 5310 program also incorporates the former "New Freedom" program (49 U.S.C. § 5317) and provides funding to address transportation challenges faced by individuals with disabilities seeking integration into the workforce and society.
- **49 USC § 5311 Formula Grants for Rural Areas** provides funding to states to support transportation in rural areas with a population of less than 50,000. The 5311 program has also incorporated the former "Job Access and Reverse Commute" (JARC) program (49 USC § 5316) and addresses transportation challenges faced by welfare recipients and low-income persons seeking to obtain and maintain employment.
- **49 USC § 5339 Bus and Bus Facilities** provides capital funding to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities.

WisDOT's policies and procedures are based on applicable state and federal legislation and administrative rules.

PLAN CONTENT

A. PROGRAM GOALS AND OBJECTIVES

The following Federal Transit Administration programs are administered by the Wisconsin Department of Transportation (WisDOT):

- 49 USC § 5304 – Statewide Planning
- 49 USC § 5310 – Enhanced Mobility of Seniors and Individuals with Disabilities
- 49 USC § 5311 – Formula Grants for Rural Areas
- 49 USC § 5339 – Bus and Bus Facilities

WisDOT administers these programs through its Public and Specialized Transit Section (“Transit Section”), which is part of the Bureau of Transit, Local Roads, Railroads and Harbors, located within WisDOT’s Division of Transportation Investment Management (DTIM).

The mission of the Bureau of Transit, Local Roads, Railroads and Harbors is to:

“Provide statewide leadership to enable communities to make sound mobility decisions and investments by anticipating and exploring opportunities; by promoting and facilitating solutions; and by providing financial and technical support.”

The Transit Section supports WisDOT’s overall vision of:

“... an integrated multimodal transportation system that maximizes the safe and efficient movement of people and products throughout the state, enhancing economic productivity and the quality of Wisconsin’s communities while minimizing impacts to the natural environment.”¹

WisDOT goals specifically related to transit include:

- Supporting public, specialized, and human services transit
- Supporting development of fixed guideway transit services
- Improving intercity bus service and connections
- Encouraging transportation demand management strategies
- Facilitating intermodal passenger connections²

¹ *Connections 2030*, <http://wisconsindot.gov/Pages/projects/multimodal/conn2030.aspx> Chapter 1 – Introduction, p. 1-1

² *Connections 2030*, <http://wisconsindot.gov/Pages/projects/multimodal/conn2030.aspx> Chapter 8 – Provide Mobility and Transportation Choice, p. 8-1

Each program also supports its specific goals, as follows:

SECTION 5304

The goal of this statewide planning program is to support transit planning studies by providing funding to local governments and operators of public transportation systems.

SECTION 5310

The goal of this program is to enhance the quality of life for Wisconsin's seniors and individuals with disabilities by improving mobility and removing barriers to transportation services and expanding the transportation mobility options available.

To that end, WisDOT provides financial assistance for transportation services planned, designed, and carried out to meet the special transportation needs of senior and individuals with disabilities in all areas – large urbanized, small urbanized and rural.

Wisconsin's four large urbanized areas – Milwaukee, Madison, Appleton, and Green Bay – manage the 5310 program for their respective geographic area. WisDOT manages the 5310 program for the small urban and rural areas of the state.

In addition to administering federal 5310 funding in a consistent and equitable manner, the state also supports the purchase of accessible vehicles with enabling legislation through Wis. Stat. 85.22³.

SECTION 5311

The goals of this program are to enhance access of people in non-urbanized areas for purposes such as health care, shopping, education, recreation, public services, and employment by encouraging the maintenance, development, improvement and use of public transportation services.⁴

Section 5311 funds, through the former Job Access and Reverse Commute (JARC) program, are also used to encourage local areas to work together in a collaborative process to assess the transportation needs for low-income workers and welfare recipients and to develop options for addressing those needs.

In addition to administering federal 5311 funding in a consistent and equitable manner, the state also supports rural public transit with enabling legislation through Wis. Stat. 85.20.

³ Wis. Admin. Code Trans 2, http://docs.legis.wisconsin.gov/code/admin_code/trans/2

⁴ Wis. Admin. Code Trans 6.01, http://docs.legis.wisconsin.gov/code/admin_code/trans/6

SECTION 5339

The goal of the Bus and Bus Facilities Program is to provide capital funding to public transit systems to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities.

B. ROLES AND RESPONSIBILITIES

ADMINISTRATION OF FEDERAL AND STATE GRANT PROGRAMS

WisDOT is the state agency designated by the governor to receive funds and administer FTA programs. The Transit Section is responsible for most aspects of administering the federal programs (sections 5304, 5310, 5311, and 5339) and state grant programs⁵ (locally referred to by the corresponding statutory authority), including: 85.20; 85.205; 85.21; 85.215; 85.22; and 85.24. The administration associated with the 5304, 5310, 5311, and 5339 programs are funded with a combination of state and federal funds.

Many FTA requirements flow through WisDOT to subrecipients. WisDOT is responsible for ensuring that subrecipients are aware of and comply with federal and state requirements. Before expending any federal funds on projects, WisDOT annually certifies to FTA that it and others operating on its behalf have met all statutory and program requirements.

The Transit Section's responsibilities include:

- Demonstrating legal, financial and technical capacity to carry out all aspects of administering and managing transit grant programs
- Ensuring the use of transit grant program funds by WisDOT and its subrecipients conform to applicable federal and state statutes, codes, ordinances and safety standards
- Managing the subrecipient selection process, notifying eligible subrecipients of availability of program, developing project selection criteria, soliciting applications, reviewing and selecting projects for approval
- Managing grant agreements, developing and executing grant agreements with eligible subrecipients, amending grant agreements

⁵ More information on WisDOT's public transit assistance programs: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/default.aspx#public>

WisDOT website links for specific state programs:

S. 85.20, Wis. Stats. – Urban mass transit operating assistance program: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/state-urban.aspx>

S. 85.21, Wis. Stats. – Specialized transportation assistance program for counties: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/county-eld.aspx>

S. 85.215, Wis. Stats. – Tribal elderly transportation grant program: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/tribal-eld.aspx>

- Ensuring compliance with FTA and federal requirements on the part of consultants, contractors and subcontractors working under approved third-party contracts or inter-agency agreements
- Ensuring that effective control and accountability of all grants and assets are properly maintained and used solely for authorized purposes
- Managing data, collecting financial reports, operating statistics and vehicle data, maintaining databases, monitoring and evaluating transit system performance
- Managing federal grants, program of projects, reporting, and grant closeouts
- Monitoring subrecipient compliance with applicable state and federal requirements
- Engaging in planning and research activities, transit plans and studies and
- Providing technical assistance, training and workshops for subrecipients

STATE ADMINISTRATION, PLANNING AND TECHNICAL ASSISTANCE

WisDOT transit staff provide technical and management assistance to subrecipients. This may include development of statewide plans and studies, individual management performance reviews, the issuance of statewide policies and procedures that affect transit operations, the development and maintenance of the online transit grants management system, and the carrying out of the annual application and grants process.

WisDOT transit staff are responsible for direct oversight and technical assistance to their subrecipients. Technical assistance is provided to subrecipients in a variety of ways including: on-site visits, organizing recurring conference calls, participating in transit development plans, conducting trainings and presentations at ad hoc workshops or annual meetings. Program managers and compliance managers respond to requests for assistance from individual subrecipients by phone and email.

Areas of technical assistance include, but are not limited to:

- Providing direction and input to plans for new or expanded transit service
- Reviewing and analyzing transit operations
- Providing assistance in understanding and carrying out requirements of federal and state regulations
- Reviewing and approving third party procurements
- Providing guidance and assistance to coordinate transit services
- Providing advice and support in the preparation of the annual applications for non-competitive grant programs.

Other divisions, bureaus, and offices within WisDOT and DOA support the Transit Section in its administration of FTA programs as follows:

Division of State Patrol, Bureau of Field Operations, Motor Carrier Enforcement

Section: Conducts annual safety inspections of 5310 human service vehicles.

Division of Business Management, Bureau of Business Services, Fiscal Services

Section: Handles processing of payments.

Executive Offices, Office of Management and Budget: Administers drawdowns of federal funds.

Division of Business Management, Bureau of Business Services, Purchasing

Section: Assists the Transit Section with procurements, including the statewide vehicle contract and consultant procurements.

Division of Business Management, Bureau of Financial Management, Audit

Section: Performs financial audits of program subrecipients as requested by the Transit Section.

Executive Offices, Office of General Counsel: Provides legal counsel, as needed.

Division of Personal Management, Region I: Develops the Equal Employment Opportunity (EEO) plan on behalf of WisDOT, develops Affirmative Action policies, oversees labor compliance, and in coordination with the Transit Section. This Division is within the Department of Administration.

Division of Transportation Systems Development, Office of Business Opportunity and Equity Compliance, DBE and Civil Rights Sections: Investigates Serves as the department lead on Title VI and ADA complaints and develops department-wide Disadvantaged Business Enterprise (DBE) program goals.

Division of Transportation Investment Management, Bureau of Planning and Economic Development, Planning Section: Prepares the State Transportation Improvement Program (STIP) and manages funding programs for metropolitan and regional transportation planning activities and corridor planning studies.

PROVISION OF TRANSIT AND RELATED SERVICES

Role of the state

While WisDOT administers several state and federal grant programs related to transit, under state law the State of Wisconsin has a limited role in the actual provision of public or specialized transit service. WisDOT administers programs and provides funding to eligible applicants where locals choose to provide service. With the exception of intercity bus, all services must have a local sponsor.

Role of local government, including tribes

Local governments, including tribes, can apply to WisDOT for funding to operate public or specialized transit or contract with a private provider to provide service. Local governments

must provide local funding to match state and federal funds for public or specialized transit projects.

Role of private providers

Private providers operate public transit or specialized transportation services under contract to local governments, or in the case of intercity bus, under contract to WisDOT.

Role of non-profits

In Wisconsin, non-profits are eligible to receive funding from state and federal programs to serve the transportation needs of target groups (e.g., seniors, disabled, low-income). Non-profits are not eligible to apply for state and federal funding for public transit (except for low income employment transportation related projects), but may provide public transit services under contract with local governments.

C. COORDINATION

OTHER AGENCIES AND UNITS OF GOVERNMENT

The Transit Section works collaboratively with other WisDOT divisions, other state agencies, local units of government, tribal governments, boards and councils, and other interested parties to ensure the effective delivery of transit in Wisconsin.

LONG-RANGE TRANSPORTATION PLAN

Officially adopted in October 2009, *Connections 2030*⁶ is the long-range transportation plan for the state. WisDOT developed the plan in cooperation with the public, state and federal review agencies⁷. The plan addresses all forms of transportation over a 20-year planning horizon: highways, local roads, air, water, rail, bicycle, pedestrian and transit. The overall goal of the planning process was to identify a series of policies to aid transportation decision-makers when evaluating programs and projects.

STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP)

WisDOT's Statewide Transportation Improvement Program (STIP)⁸ is a four-year program of highway and transit projects for the state. Published every year, and amended as changes to projects occur, the plan is a compilation of all highways (state or local) and transit (capital or operating) projects in urban and rural areas. The STIP adopts the transportation improvement programs (TIP) prepared by the state's fourteen metropolitan planning organizations (MPO) by reference. The STIP is approved by the Federal Highway Administration (FHWA) and FTA.

⁶ Connections 2030 is found at: <http://wisconsin.gov/Pages/projects/multimodal/conn2030.aspx>

⁷ The public involvement efforts associated with the development of Connections 2030 is found at: <http://wisconsin.gov/Pages/projects/multimodal/c2030-pi.aspx>

⁸ A copy of the STIP is located on the WisDOT website at: <http://wisconsin.gov/Pages/doing-bus/local-gov/astnce-pgms/highway/stip.aspx>

COORDINATED PUBLIC TRANSIT HUMAN SERVICES TRANSPORTATION PLAN

Federal law requires projects funded under Section 5310 to be included in a locally developed, coordinated public transit-human services transportation plan. Coordinated plans must be updated every four to five years and consistent with the applicable metropolitan or statewide planning process.

Coordination plan toolkit materials are available on the WisDOT Transportation Coordination webpage⁹. Use of the toolkit materials help ensure coordination plans meet all federal requirements.

D. ELIGIBLE SUBRECIPIENTS

SECTION 5304

Eligible subrecipients of the Section 5304 Statewide Transit Planning Program¹⁰ include MPOs, local government authorities, and operators of public transportation systems.

SECTION 5310

Eligible subrecipients of the Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program¹¹ include local units of government, private non-profit organizations, or operators of public transportation receiving a 5310 grant indirectly through a direct recipient (i.e. WisDOT). Section 5310 subrecipients generally use the federal funds for non-vehicle projects, including: operating projects; mobility management; and non-vehicle capital projects.

Eligible subrecipients for vehicle purchases are private non-profit organizations and, under certain conditions, local public bodies. A local public body is an eligible applicant if it either (a) demonstrates that no private non-profit organization is available and willing to provide transportation in the proposed service area, or (b) is designated as the local transportation coordinator for the proposed service area.

To be recognized as the local transportation coordinator, the public body must be so designated by a transportation coordinating committee (TCC) with membership and duties as specified in s. Trans. 2.10(1)(a), Wis. Admin. Code, and by all county boards covering the service area.

⁹ Coordination plan toolkit: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/compliance/coord.aspx>

¹⁰ Information on the section 5304 program is located on the WisDOT website at: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/planning.aspx>

¹¹ Information on the section 5310 program is located on the WisDOT website at: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/county-eld.aspx>

SECTION 5311

Eligible subrecipients of the Section 5311 Formula Grants for Rural Areas Program¹² are defined as “...*local public bodies or federally recognized Indian tribal governing bodies, but [do] not include private transportation providers*” (Wis. Admin. Code Trans 6.02(2)).

Local public bodies are defined as “...*counties, cities, villages and towns or agencies thereof*” (Wis. Admin. Code Trans 6.02(6)).

Private for-profit and non-profit entities participate in the public transit program through third-party operator contractual relationships or as second tier subrecipients for JARC services with eligible subrecipients.

At least 15 percent of WisDOT’s annual 5311 formula apportionment must be dedicated to intercity bus service per federal regulations. If WisDOT does not anticipate meeting that requirement, it conducts a consultation process with intercity bus providers and submits a certification of met needs from the governor. The Transit Section solicits competitive applications from private intercity bus providers on a periodic basis from eligible intercity operators.

SECTION 5339

Eligible subrecipients of Section 5339 Bus and Bus Facilities funds¹³ include fixed route bus service operators, local governments and public transit agencies, federally recognized Indian tribes that operate fixed route bus service (and are eligible to receive section 5307 and 5311 grants), and private nonprofit organizations engaged in public transportation. WisDOT prioritizes project awards for urban systems serving a population of between 50,000 and 200,000, but may make awards for rural transit projects. Awards are based on evaluation criteria such as consistency with local transit priorities, age and deferred maintenance of vehicles or facilities, the number and success of past capital awards, and demonstrated commitment of local share.

E. PRIVATE SECTOR PARTICIPATION

SECTION 5304

Private businesses can be involved in transit planning studies when a subrecipient chooses to engage a third party via requests for proposals. Private bidders are chosen via the selection process outlined in the advertisement and a contract is executed.

¹² Information on the section 5311 program is located on the WisDOT website at: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/fed-rural.aspx>

¹³ Information on the section 5339 program is located on the WisDOT website at: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/bus-program.aspx>

SECTION 5310

FTA requires that applicants afford private, for-profit, transit and paratransit operators a fair and timely opportunity to participate to the maximum extent feasible in the planning and provision of proposed transportation services. Accordingly, each applicant for 5310 funds must comply with this policy and document such efforts in its application.

The applicant must publish a public notice in local newspapers serving the proposed service area, describing its project and soliciting interest from private parties to provide the service. The notice must provide 15 days for response, and the applicant must provide a publisher's affidavit with its application. Further, local units of government applying for vehicle purchases must send notification letters to all known transportation providers in their area and provide at least ten days for response. Public hearings that are held must take place in an accessible location.

As noted earlier, non-profit corporations are eligible applicants under 5310. All eligible applicants are invited to apply for 5310 funds, and awards are made based on fair evaluation of project merits. Potential applicants are informed of program solicitations through both email notifications to past and current awardees, and website postings.

Lists of private transportation providers are used to inform public agencies and non-profit organizations about the statewide coordination planning process. Notice of the development of transportation plans is sent to the distribution lists noted above and also advertised in local newspapers.

SECTION 5311

Private operators, both for-profit and non-profit, participate in public transit in the following ways:

- Contracting with subrecipients using a FTA compliant procurement process as a third-party operator to provide public transit service, non-operation services or the purchase of capital goods
- Participating on local transit advisory committees, should they exist and
- Participating on partnership efforts such as the development of statewide plans, local transit development plans and input and guidance to subrecipients.

Private sector providers of public transportation are afforded notification of WisDOT's JARC/WETAP project solicitation through:

- **Electronic mailing list** - An email notification of applications is sent to all past and current participants in the program, any organization that has requested information about the program in the past year, regional planning commissions, and metropolitan planning organizations.

- **Website posting** - Notification of the availability of the JARC application is posted on the WisDOT WETAP web page¹⁴.
- **Open competition** - All eligible applicants are invited to apply for funds.
- **Selection process** - The selection process is fair and equitable based on project merits.

SECTION 5339

Private sector providers are not eligible for 5339 awards, though subrecipients may purchase capital goods using 5339 funds from private entities via an FTA-compliant procurement process.

F. ELIGIBLE SERVICES AND SERVICE AREAS

SECTION 5304

Eligible projects under 5304 are studies that are used to support balanced and comprehensive transportation planning that considers the relationship among land use and all transportation modes. Service area can be any rural or small urban area of the state.

SECTION 5310

Eligible projects under 5310 are capital and operating expenditures that support transportation to meet the special needs of seniors and persons with disabilities. Service area can be any rural or small urban area of the state.

SECTION 5311

Eligible projects under 5311 are capital and operating expenses for public transportation services that are scheduled for and operated in non-urbanized areas (population under 50,000).

SECTION 5339

Eligible projects under 5339 are capital projects for public transit systems that serve a rural, small or large urban area in the state to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities.

G. ELIGIBLE ASSISTANCE CATEGORIES

SECTION 5304

Section 5304 funds support local and regional transit planning efforts by offering funding for relevant studies and plans.

¹⁴ WisDOT's WETAP webpage is located at: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/wetap.aspx>

SECTION 5310

Operating Assistance

The state does not treat the subrecipient's administrative and operating costs of the transit system as two separate categories. All subrecipient administrative costs are part of operating costs. The federal share of operating deficits cannot exceed fifty percent unless WisDOT approves the use of capital cost of contracting agreements for systems with third-party providers.

Capital Assistance

The federal share of capital costs is no more than 80 percent of the net cost of the activity.

State Administration

WisDOT annually determines the amount needed for administrative purposes. The maximum amount permitted is 10 percent of the grant award value.

Capital vs. Operating Percentages

Up to 45 percent of the allotted Section 5310 funds may be used for operating projects and at least 55 percent of the allotted Section 5310 funds must be used for capital projects. Typically, the state will allocate 55 percent for capital projects (vehicles and mobility management), 35 percent for operating, and 10 for administration.

SECTION 5311

Operating Assistance

The state does not treat the subrecipient's administrative and operating costs of the transit system as two separate categories. All subrecipient administrative costs are part of operating costs. The federal share of operating deficits cannot exceed fifty percent unless WisDOT approves the use of capital cost of contracting agreements for systems with third-party providers.

Capital Assistance

The federal share of capital costs is no more than 80 percent of the net cost of the activity.

Intercity Bus Assistance

Section 5311(f) funds provide operating assistance to private mass transit companies to support priority rural intercity routes as identified in the state's long-range plan, *Connections 2030*. In addition to federal rules, WisDOT administers the intercity bus program under state statutes found at Wis. Stat. 85.26 Intercity Bus Assistance Program.

Rural Transit Assistance Program (RTAP)

FTA allocates a portion of funds Wisconsin's annual Section 5311 apportionment to further the development of skills and abilities for persons involved in providing transit service to the state's rural and small urban areas

State Administration

WisDOT annually determines the amount needed for administrative purposes. The maximum amount permitted is 10 percent of the grant award value from FTA.

SECTION 5339

Eligible activities for use of 5339 Bus and Bus Facilities funds are capital projects to replace, rehabilitate, and purchase buses and related equipment and the construction of bus-related facilities.

H. LOCAL SHARE AND LOCAL FUNDING REQUIREMENTS

Local share for all programs must come from sources other than USDOT funds. Examples of local match sources that may be used for the local share include local appropriations, dedicated tax revenues, private donations, revenue from human service contracts, and net income generated from advertising and concessions, and other non-federal funds.

SECTION 5304

The transit planning funds are available at up to 80 percent of eligible expenses. Local government authorities and operators of public transportation systems also may request Section 5304 funds to cover up to 75 percent of eligible training expenses.

SECTION 5310

The local share of eligible capital expenses is a minimum 20 percent of the total cost. The local share of eligible operating assistance projects is a minimum of 50 percent of the net operating cost. WisDOT allows cash match for all project types, and in-kind match for capital mobility management projects and operating projects.

SECTION 5311

Operating Assistance

Wis. Stat. 85.20(4m) describes operating assistance recipient classifications and prescribes the statutorily required local shares. Subrecipients who operate bus systems are required to contribute local share equal to at least 20 percent of their state aid. This provision does not apply to subrecipients that are served exclusively by public transit shared-ride taxi cab systems.

Subrecipients who are only eligible for 5311

After developing the total approved operating expense budget, the revenues are subtracted to obtain the operating deficit. The federal share is determined by awarding up to 50 percent of the operating deficit. In cases where the transit service is provided by a private provider under contract, WisDOT may apply capital cost of contracting percentages to determine the federal amount. The local share required is the remaining amount.

Subrecipients who are eligible for 5311 and state 85.20 funding

After developing the total approved operating expense budget, the revenues are subtracted to obtain the operating deficit. The federal share is determined by awarding up to fifty percent of the operating deficit. In cases where the transit service is provided by a private provider under contract, WisDOT may apply capital cost of contracting percentages to determine the federal amount. Under Wis. Stat. 85.20(4m), if the subrecipient is also eligible for state public transit funding, WisDOT must distribute state funds so that the sum of the state and federal aids for the projected operating expenses of each subrecipient is a uniform percentage. The local share required is the remaining amount.

Capital Assistance

Based on the availability of funding for capital awards through the 5311 program, subrecipients fund 20 percent of the local share for vehicle or equipment projects.

JARC

JARC funds may be used to finance capital and operating expenses; however, the maximum federal share of eligible capital costs may not exceed 80 percent of the net capital costs of the program. The federal share of the eligible operating costs may not exceed 50 percent of the net operating costs of the activity.

WisDOT allows cash match for all project types, and in-kind match for capital mobility management projects and operating projects.

SECTION 5339

Subrecipients typically fund 20 percent of the local share for capital equipment projects funded through the 5339 program.

I. PROJECT SELECTION CRITERIA AND METHOD OF DISTRIBUTING FUNDS

SECTION 5304

WisDOT accepts Section 5304 planning grant applications by email or through WisDOT's grants management system, BlackCat¹⁵. WisDOT reviews applications and may issue a planning grant award based on the ability of the proposed transit planning project to meet Section 5304 eligibility standards and the availability of federal funding. Typically, FTA funds are not immediately available, so WisDOT will issue pre-award spending authorization in conjunction with the award. This allows the grantee to incur reimbursable expenses while WisDOT awaits FTA funding.

SECTION 5310

WisDOT combines 5310 funds with state funds authorized under s. 85.22, Wis. Stats., into a consolidated program to fund capital and operating projects for Wisconsin's population of seniors and individuals with disabilities. WisDOT accepts applications on an annual cycle. During the open application cycle, application documents are posted on WisDOT's 5310/85.22 program webpage¹⁶ and on BlackCat.

Projects are selected for funding based on ranking of applications submitted by eligible applicants. Criteria for project ranking include demonstration of need and project benefits, promotion or development of a coordinated network, financial and technical capacity, and the project budget.

Once WisDOT ranks applications and selects awardees, it notifies awardees and subsequently enters into grant agreements with each awardee. Grant agreements for vehicle purchases impose several obligations on awardees including paying their local share to WisDOT; inspecting, insuring and maintaining all awarded vehicles; and using the vehicles consistent with the purpose(s) and program identified in their application.

Grant agreements for non-vehicle capital projects and operating projects impose obligations such as reporting requirements and procurement compliance.

Typically, FTA funds are not immediately available, so WisDOT will issue pre-award spending authorization in conjunction with the award. This allows the grantee to incur reimbursable expenses while WisDOT awaits FTA funding.

¹⁵ BlackCat is located at: <http://widot.blackcatgrants.com/>

¹⁶ WisDOT's 5310/85.22 program webpage is located at: <http://www.dot.wisconsin.gov/localgov/transit/elderly.htm>

SECTION 5311

The procedure for soliciting applications for funding and determination of distribution of funds is established in Wis. Admin. Trans 6 – Rural and small urban area public transportation assistance program¹⁷.

Federal funds are awarded to eligible subrecipients according to the following priority:

- (1) Operating assistance to public transit systems
- (2) Capital assistance to public transit systems

Requests for capital assistance are made available in the following rank order of priority under Wis. Admin. Code 6.06(1):

- (a) Projects to replace vehicles operated by existing systems;
- (b) Projects to initiate a public transportation service;
- (c) Projects to replace maintenance and storage facilities of existing systems;
- (d) Projects to expand the number of vehicles operated by existing systems;
- (e) Projects to expand and rehabilitate maintenance and storage facilities of existing systems; and
- (f) Projects to purchase and install passenger amenities for existing systems such as shelters and bus stop signs.

Through the annual application process, eligible subrecipients prepare and submit application materials to BlackCat.

Annual applications are then reviewed by WisDOT Transit staff for:

- Completeness and compliance with state and federal requirements
- Financial plan that demonstrates fiscal capacity and reasonableness
- Service plan that matches the fiscal capacity and is appropriate in scale and scope
- Capital request, if any, match fiscal capacity and is effective and efficient
- Third party contracts, if any, conform with state and federal requirements
- Coordination relationships with other organizations and agencies either exist or are in development.

Once the annual application and corresponding budget are approved and the appropriate subgrant amount is determined, funds are awarded using a combination of formulas that take into account federal, state, and local sources. Those applicants who are only eligible for 5311 federal funds are awarded at or below the amount of 50 percent of the operating deficit. The remaining amount is the local share.

¹⁷ Wis. Admin. Code Trans 6.01, http://docs.legis.wisconsin.gov/code/admin_code/trans/6

Under Wis. Stat. 85.20(4m), if the subrecipient is also eligible for state public transit funding, WisDOT must distribute state funds so that the sum of the state and federal aids for the projected operating expenses of each subrecipient is a uniform percentage, including the requirement that the 5311 operating assistance is at or below 50 percent of the operating deficit (unless capital cost of contracting applies).

Eligible subrecipients are contractually obligated to provide the local share portion of the operating deficit. All applications from eligible applicants are treated equally and reviewed using the same procedures.

Tribal governments who choose to have 5311 funding administered through the state follow the same procedures as all other 5311 applicants. Currently, all tribal governments who receive 5311 funding do so as subrecipients of WisDOT. Those who might choose to become direct recipients to FTA would be provided equivalent technical assistance upon request.

JARC

WisDOT combines 5311, 5307, and State 85.24 TEAM¹⁸ funds into a consolidated program called the Wisconsin Employment and Transportation Program (WETAP) to fund capital and operating projects for low-income residents seeking employment. WisDOT accepts applications on an annual cycle. During the open application cycle, application documents are posted on WisDOT's WETAP webpage¹⁹ and BlackCat.

Projects are selected for funding based on ranking of applications submitted by eligible applicants. Criteria for project ranking include demonstration of need and project benefits, promotion or development of a coordinated network, financial and technical capacity, and the project budget.

Once WisDOT ranks applications and selects awardees, it notifies awardees and subsequently enters into grant agreements with each awardee. Grant agreements for mobility management capital projects and operating projects impose obligations such as reporting requirements and procurement compliance.

Typically, FTA funds are not immediately available, so WisDOT will issue pre-award spending authorization in conjunction with the award. This allows the grantee to incur reimbursable expenses while WisDOT awaits FTA funding.

¹⁸ S.85.24, Wis. State – Transportation employment and mobility program, TEAM
<https://docs.legis.wisconsin.gov/statutes/statutes/85/24>

¹⁹ WisDOT's WETAP webpage is located at: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/wetap.aspx>

SECTION 5339

Section 5339 formula funds are apportioned annually to WisDOT. WisDOT distributes a portion of the funds via formula based on Section 5307 allocations, and awards the remainder for capital projects based on the demonstrated need in the latest annual applications (that are also used to award 5311/5307/85.20 operating assistance).

WisDOT notifies FTA of awards to urban systems so those systems may apply for the funds directly to FTA. If rural subrecipients are awarded 5339 formula funds, WisDOT administers the funds, including the application to FTA.

WisDOT applies for Section 5339(b) discretionary funds on behalf of rural and non-fixed route small urban transit systems when the funds are made available by FTA.

If WisDOT is awarded funds where the subrecipients are not specified, the funds will be allocated based on recent applications, the age and deferred maintenance of vehicles, equipment or facilities, demonstrated commitment of local share from previous grants, and subrecipients' receipts of other funding sources.

J. ANNUAL PROGRAM OF PROJECTS DEVELOPMENT AND APPROVAL PROCESS

Once federal awards are made, the details of each award are included in a program of projects WisDOT submits to FTA as part of the TrAMS application process.

Further, the program of projects for each program are incorporated into Wisconsin's State Transportation Improvement Program (STIP)²⁰. Because the STIP is finalized in December and WisDOT transit staff do not typically finalize the program of projects for these programs until after January, the program of projects for each program is incorporated into the STIP by amendment with a 15-day comment period.

Any projects and awards that may take place within the boundaries of a MPO are incorporated into their respective Transportation Improvement Program (TIP), which are then incorporated into Wisconsin's STIP by reference.

K. TRANSFER OF FUNDS

WisDOT may transfer 5310, 5311, and 5339 funds or FHWA flexible funds as specified in the respective FTA circulars of these programs. Notice or request of the transfers is forwarded to FTA.

²⁰ A complete STIP is available on WisDOT's website at: <http://wisconsin.gov/Pages/doing-bus/local-gov/astnce-pgms/highway/stip.aspx>

L. PROGRAM MEASURES

PROJECT MONITORING AND REPORTING REQUIREMENTS

Project monitoring is an ongoing process undertaken by WisDOT transit staff. Subrecipients are required to report expenses, revenues and operating statistics via quarterly reports.

The project managers use the information contained in the quarterly reports to monitor subrecipients' fiscal and operational activities. Requests for reimbursement are approved by the program manager before processing for payment.

SECTION 5304

WisDOT uses awardee applications (including project budgets therein) and required quarterly reports to monitor and evaluate performance. WisDOT program managers use these reports to monitor subrecipient fiscal and administrative management, project timelines, technical ability, and to satisfy federal reporting requirements. WisDOT staff request and review records and documentation for reimbursements to be made to awardees and their subcontractors, as applicable.

SECTION 5310

WisDOT uses awardee applications (including project budgets therein) and required quarterly reports to monitor and evaluate performance.

Vehicle usage reports quantify passenger type, number of one-way miles, area served, and expenses. Mobility management and operating reports cover expenses, revenues, outcomes such as rides provided or calls made, and how far the subrecipient is to reaching goals they set during the application process.

WisDOT program managers use these reports to monitor subrecipient fiscal and operational management, technical ability, and to satisfy federal reporting requirements. WisDOT staff request and review records and documentation for payments made for operating, mobility management, and vehicles.

SECTION 5311

Section 5311 capital improvements – Four-year transit development plan

With the submission of the annual request for funding, 5311 subrecipients update their respective four-year transit development plans, which include estimated requests for capital over four years.

JARC

WisDOT uses awardee applications (including project budgets therein) and required quarterly reports to monitor and evaluate performance.

Mobility management and operating reports cover expenses, revenues, outcomes such as vanpool rides provided or calls made, vehicle loans, carpool rides, and job accessed.

WisDOT program managers use these reports to monitor subrecipient fiscal and operational management, technical ability, and to satisfy federal reporting requirements. DOT staff request and review records and documentation for payments made for operating and mobility management projects.

Productivity, cost effectiveness and service standards

Under Wis. Admin. Code Trans 4.09²¹, public transit systems must annually establish service performance goals and assess the effectiveness of the transit system in relation to those goals. The goals are submitted to WisDOT as a part of the application. At a minimum, goals shall be established for the following performance indicators:

- (a) The ratio of passengers, as expressed in unlinked trips to service area population
- (b) The ratio of operating expenses to passengers, as expressed in unlinked trips
- (c) The ratio of operating expenses to revenue hours
- (d) The ratio of revenues to operating expenses
- (e) The ratio of passengers, as expressed in unlinked trips, to revenue hours
- (f) The ratio of revenue hours to service area population

Subrecipients must also prepare and submit quarterly to WisDOT a report of system effectiveness in relation to the goals established as established. WisDOT assesses the cost efficiency and the performance of each transit system on an annual basis using the six performance indicators above (a-f).

For purposes of analysis, transit systems are divided into the following peer groups:

- Milwaukee
- Madison
- Medium bus systems
- Small bus systems
- Commuter bus systems
- Shared-ride taxi systems
- County-wide shared-ride taxi systems

For the Milwaukee, Madison, and medium bus tiers, peer groups of similarly sized transit systems with similar operating characteristics external to the state are developed to establish performance standards. Data used for these peer groups will be the most recent available from the national transit database. For small bus, commuter bus, and shared-ride taxi tiers, standards shall be established using data from only in-state systems in these tiers because no national database information is available for these types of systems.

²¹ Wis. Admin Code Trans 4, http://docs.legis.wisconsin.gov/code/admin_code/trans/4

Data is used from the preceding calendar year. Standards for each of the six performance measures are set for each grouping using a standard deviation. Systems that are within one standard deviation of the arithmetic mean shall be judged as in compliance with the standard for the measure. Systems whose performance is better than the one standard deviation shall also be judged as in compliance with the standard for the measure. Systems that meet the standards for four of the six performance measures shall be deemed in compliance with the cost efficiency standards, and no further action will be taken.

If a transit system does not meet the cost efficiency standards, further analysis will be conducted including a time trend analysis and a review of the most recent management performance review.

SECTION 5339

WisDOT monitors the purchase, maintenance, and disposal of assets purchased by rural subrecipients with 5339 funds via compliance site reviews (CSR), application processes, and *ad hoc* asset management surveys.

M. PROGRAM MANAGEMENT

FINANCIAL MANAGEMENT

Public and Specialized Transit Section

The Transit Section is responsible for managing grants, contracts and interagency agreements to ensure that expenditures comply with federal rules and regulations for all FTA grant programs. Financial management responsibilities include:

- Investigating and resolving accounting problems to ensure compliance with state and federal rules
- Managing the documentation entered into WisDOT's *PeopleSoft* accounting software and BlackCat relative to individual grants, contracts and interagency agreements
- Working with the WisDOT Audit Section to ensure completion of financial audits in accordance with 2 CFR Part 200, Subpart F²² and OMB Circular A-133²³
- Submitting federal financial reports in FTA's Transportation Award Management System (TrAMS)
- Balancing and closing out FTA grants when projects are completed

Office of Management and Budget

WisDOT's Office of Management and Budget manages the Electronic Clearing House Operation (ECHO) process between FTA and WisDOT so that transactions are processed in a

²² Electronic CFR link for 2 CFR Part 200, Subpart F: <https://www.ecfr.gov/cgi-bin/text-idx?node=sp2.1.200.f>

²³ Whitehouse.gov link for OMB Circular A-133:

https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A133/a133_revised_2007.pdf

timely manner and the accounts are balanced and well documented. WisDOT requests payments to its federal grants awards using ECHO-Web, FTA's web application. The Office of Management and Budget also annually reviews financial reports submitted to TrAMS by WisDOT.

Audit Section

WisDOT's Audit Section performs financial audits on 5311 operating assistance grants to subrecipients in accordance with OMB Super Circular 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

ACCOUNTING SYSTEMS

Subrecipients establish a set of accounts in which all transit related costs, revenues, and operating sources are recorded and clearly identified, easily traced, and substantially documented. Accounting practices and records must be in accordance with generally accepted accounting principles.

All WisDOT divisions use a common accounting for payments to vendors and subrecipients. WisDOT staff may access *PeopleSoft queries* or data warehouse reports to compile financial information.

FINANCIAL REVIEWS

Section 5311 subrecipients are contractually and administratively required under Wis. Admin. Code, Trans 6.08 to maintain and submit, upon request, their books, records, documents, and accounting procedures and practices for audit and examination by WisDOT or their representative.

Once subrecipient agreements are audited and closed, and final payment in a 5311 grant has been made, WisDOT begins the grant closure with FTA.

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

The Federal Funding Accountability and Transparency Act (FFATA) requires information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website²⁴. The act requires direct recipients to report subaward information exceeding \$25,000 by the end of the month, after the month in which subawards are made to a grant. To adhere to FFTA requirements, WisDOT collects financial information from each subrecipient during the grant application process. WisDOT submits the list of subawards exceeding the \$25,000 reporting threshold to the Wisconsin Department of Administration (DOA). WisDOT's OMB then publishes completed reports,

²⁴ Information on federal awards located at: <http://www.usaspending.gov/>

making them available to DOA for transmission to the FFFATA Subaward Reporting System (FSRS)²⁵.

COMPLIANCE SITE REVIEWS

As a recipient of FTA financial assistance, the Transit Section is required to comply with several federal rules and regulations. Many FTA requirements flow through the state to subrecipients. WisDOT is responsible for ensuring that these entities are aware of and comply with the requirements established by FTA.

WisDOT has an ongoing system to ensure that subrecipients adhere to federal requirements. To meet FTA expectations of subrecipient compliance oversight, WisDOT has developed a comprehensive compliance site review (CSR) program²⁶.

The CSR program is opportunity for WisDOT to provide one-on-one technical assistance, specifically tailored to the needs of each transit system, with the goal of reaching compliance in all Federal oversight areas. Onsite reviews are conducted to identify strengths, areas that need improvement and areas where subrecipients may need additional training. In addition, WisDOT collects data on all corrective action items identified during CSRs. This data informs the Transit Section of trends in noncompliance and allows the targeted use of technical resources, creating a more efficient and effective compliance oversight program.

MANAGEMENT PERFORMANCE REVIEWS

Under Wis. Admin. Code Trans 4.10, WisDOT is required to conduct management performance audits of 5311 subrecipient that are not shared-ride taxi systems at least every five years. On occasion, WisDOT will conduct a management performance review of a shared-ride taxi system.

N. INTERCITY BUS TRANSPORTATION

In addition to federal rules, WisDOT administers 5311(f) program funds in accordance with Wis. Stat. 85.26²⁷, the Intercity Bus Assistance (IBA) program. According to IBA program guidelines, WisDOT may contract with private providers of intercity bus service to support intercity bus routes of the provider, or make grants to political subdivisions to support intercity bus service routes having an origin or destination in the political subdivision.

Service is procured via a request for proposals process with the intent of funding projects that meet the following objectives:

²⁵ FFATA Subaward Reporting System located at: <https://www.fsr.gov/>

²⁶ Information on the CSR program is available on WisDOT's website, located at: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce--pgms/transit/compliance/csr.aspx>

²⁷ S.85.26, Wis. Stats. – Intercity bus assistance program: <https://docs.legis.wisconsin.gov/2011/statutes/statutes/85/26>

- The service project is consistent with WisDOT planning objectives as identified in Connections 2030
- The service project facilitates meaningful intermodal connections
- The service project improves connectivity to or between major metropolitan areas that currently lack convenient or direct intercity bus service
- The contractor demonstrates that they have the technical capacity, financial stability, marketing plan, and requisite experience to be recipients of state and federal funds

After projects are selected based on the evaluation of proposals, contracts are issued for one-year terms with options to extend service for up to four additional years if deemed to be in the best interests of the State of Wisconsin. At a minimum, all service would be re-bid after a five-year contract period. The reporting of financial information and reimbursement for services is performed on a quarterly basis using the same project controls and procedures as the 5311 program.

INTERCITY BUS CONSULTATION

If WisDOT does not expect to meet the FTA requirement that 15 percent of the annual 5311 apportionment will be used for intercity bus service, it will conduct outreach to intercity bus providers to ensure that all intercity bus needs are met.

- Wisconsin's intercity bus providers are identified by first taking an inventory of over-the-road motor coach operators that provide scheduled service.
- Annual informational memorandums are disseminated to identify intercity bus providers. Through this memo, providers are encouraged to offer feedback on the program and are provided guidance as to how mutual objectives can be met through state and federal investment in intercity bus service.
- The Transit Section discusses the intercity bus program with providers at the annual Wisconsin Public Transit Association (WIPTA) conference and other transit meetings, including the National Conference on Rural Public and Intercity Bus Transportation.

In addition to the request for proposal (RFP) process for intercity bus service, local public bodies may apply to sponsor intercity bus service through the conventional annual 5311 application cycle.

O. RURAL TRANSPORTATION ASSISTANCE PROGRAM (RTAP)

The Rural Transportation Assistance Program (RTAP)²⁸ in Wisconsin allocates federal funds to further the development of skills and abilities for persons involved in providing transit service to the state's rural and small urban areas.

Training objectives include:

²⁸ Information on RTAP can be found on the WisDOT website at:
<http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/rtap.aspx>

- A scholarship program that enables subrecipients to attend local, regional or national conferences and trainings related to rural transit or transit operations.
- Topic-specific workshops to be organized several times a year and offered at no cost to subrecipients.
- Hands-on driver training to be provided throughout the state throughout the year.
- Webinars and other materials shall be developed as the training needs of transit providers dictates.

Technical assistance takes place through reoccurring conferences or ad hoc workshops that WisDOT (or technical experts under contract to WisDOT) offers to eligible participants throughout the year. Research activities may be undertaken on a periodic basis responding to an expressed need of transit operators and results are distributed to grantees.

P. PROCUREMENT AND DISADVANTAGED BUSINESS ENTERPRISE (DBE)

PROCUREMENT

As the designated recipient of federal grant funds, WisDOT is responsible for ensuring that subrecipients are aware of and comply with federal procurement requirements.

Before procurements are initiated, subrecipients should review the resources on the WisDOT procurement website²⁹ and work with WisDOT transit staff to ensure appropriate procurement steps are followed. WisDOT procurement website materials include the WisDOT Procurement Manual, FTA Best Practices Procurement Manual, federal circular FTA C 4220.1F – Third Party Contracting Guidance, sample toolkits (by procurement type and anticipated dollar amount), and National RTAP's ProcurementPRO system.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

Disadvantaged Business Enterprise (DBE) provisions apply to USDOT-assisted contracts for airports, highways and transit. This includes the use of FTA planning, capital, and/or operating funds spent on contracts. The FTA requires organizations receiving these federal funds to make efforts to purchase from, or use, DBE firms. A DBE is a for-profit small business that is:

- At least 51% owned by one or more individuals who are socially or economically disadvantaged or, in the case of a corporation, in which 51% of the stock is owned by one or more such individuals.
- Controlled (management and daily business operations) by one or more of the socially and economically disadvantaged individuals who own it.

²⁹ WisDOT subrecipient procurement information located at: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/procure.aspx>

As a recipient of these FTA funds, WisDOT has a DBE program that addresses FTA-funded contracting activities conducted by WisDOT, as well as those of its grant subrecipients.

The objectives of the DBE program are, in part, to ensure nondiscrimination in the award and administration of USDOT-assisted contracts, create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts and help remove barriers to the participation of DBEs in USDOT-assisted contracts.

WisDOT's Office of Business Opportunity and Equity Compliance (OBOEC) takes the lead for the department on administering the DBE program, including the development of the department-wide DBE program plan³⁰ and formulation and distribution of the DBE policy. The plan outlines policies and procedures established to satisfy the DBE requirements. OBOEC also provides assistance to potential DBEs to become certified and maintains the Unified Certification Program (UCP) Directory.

The Transit Section regularly receives FTA funds that generate over \$250,000 in contracting opportunities in a federal fiscal year – this obligates the Transit Section to develop and submit transit-specific overall three-year agency goals to FTA. The Transit Section assists OBOEC in the administration of the program for FTA-funded projects. The primary activities conducted by WisDOT transit staff include assistance with transit goal setting and contract monitoring and reporting.

WisDOT transit staff work closely with subrecipients in addressing DBE requirements. In goal setting, three-year goals are established based on anticipated FTA funded contracting opportunities by both subrecipients and WisDOT transit. Contract-specific goals may also be established and requires a greater amount of subrecipient technical assistance from WisDOT transit. Work with subrecipients also includes the ongoing collection of data for contract monitoring and reporting on FTA funded contracts.

The WisDOT DBE Program Plan is submitted to and approved by FHWA. Any plan updates with significant changes are also submitted to FHWA. Key provisions of the plan include general and administrative requirements, goals, good faith efforts, certification standards and procedures and small business participation.

The Transit Section develops a transit-specific supplement to the WisDOT DBE program plan (Transit DBE Program Plan) – all DBE submissions to FTA are completed in TrAMS by WisDOT transit staff, including the DBE program plans and all required reporting.

³⁰ Information on WisDOT's DBE's program is available at: <http://wisconsindot.gov/Pages/doing-bus/civil-rights/dbe/default.aspx>

Q. CIVIL RIGHTS

WisDOT ensures compliance with a variety of civil rights laws and executive orders which prohibit discrimination on the basis of race, color, national origin, religion, sex, disability and age in programs and activities receiving federal financial assistance. Specific civil rights requirements are outlined in 49 U.S.C. 5332 of the Federal Transit Act, as amended, Title VI of the Civil Rights Act of 1964, Equal Employment Opportunity (EEO), Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990. Subrecipients that sign grant agreements with WisDOT agree to comply with all applicable civil rights statutes and regulations, including Title VI, EEO, and ADA.

TITLE VI

Title VI is a federal statute and provides that no person in the United States, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

WisDOT prepares a transit Title VI program report, approved by the WisDOT secretary, for submission to the FTA every three years. The elements of the program³¹ are determined by FTA Circular 4702³² (as amended) and include:

- Title VI notice to the public
- Title VI complaint procedure and form
- List of transit-related Title VI investigations, complaints or lawsuits filed with WisDOT
- Public participation plan and outreach efforts
- Language assistance plan
- Description of WisDOT's criteria for project selection
- Discussion of WisDOT's funding request
- A description of subrecipient oversight
 - Subrecipients of federal transit funds must prepare and submit a Title VI Plan to WisDOT

WisDOT's Transit Section oversees subrecipient compliance with Title VI through grant applications and agreements, review of subrecipient Title VI Plans, investigations and monitoring of Title VI complaints, review of service standards for fixed route systems and equity analysis, and during Compliance Site Review (CSR) on-site visits.

AMERICANS WITH DISABILITIES ACT (ADA)

Under USDOT regulations concerning administration of the ADA, all subrecipients must comply with 49 CFR Parts 27, 37 and 38 implementing the ADA and amending the Section

³¹ Information on Title VI Plan requirements are available on the WisDOT website at: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/compliance/title6.aspx>

³² As of the publication of this document, the current version is 4702.1B.

504 rule. ADA provisions require public and private transportation providers to operate services in a way that does not discriminate against persons with disabilities. The regulations include general nondiscrimination provisions that apply to all types of agencies and services. This civil rights law sets forth specific requirements for public transportation services, vehicle and facility accessibility, and the provision of complementary paratransit service, as well as overall requirements for a complaint process.

WisDOT monitors subrecipients for compliance with applicable ADA service provisions and training requirements. While compliance responsibilities vary depending on the type of transportation service provided, all public and private transportation providers must:

- Allow service animals to accompany individuals with disabilities in vehicles and facilities
- Deploy the lift or ramp upon request, for standees as well as wheelchair-users
- Accommodate people who use a wide variety of mobility devices
- Not deny an individual transportation because a vehicle's securement system is unable to secure the mobility device
- Make public information and communications available in accessible formats
- Accommodate persons using respirators or portable oxygen
- Train operators in the use of accessibility equipment as well as sensitivity to people with disabilities

Subrecipients operating fixed-route and complementary paratransit services are required to develop and implement complementary paratransit plans. WisDOT transit staff verifies compliance with ADA requirements while reviewing annual grant applications, during Compliance Site Review (CSR) on-site visits.

EQUAL EMPLOYMENT OPPORTUNITY (EEO)

The state must ensure that no person in the United States shall on the grounds of race, color, religion, national origin, sex, age, or disability be excluded from participating in, or denied the benefits of, or be subject to discrimination in employment under any project, program, or activity receiving federal financial assistance under the federal transit laws.

WisDOT's EEO program³³ is administered by the department's affirmative action program coordinator, who also maintains the EEO program plan.

An EEO program is required of all subrecipients that both employ 100 or more transit-related employees (including temporary, full, and part-time) and received capital or operating assistance in excess of \$1 million or planning assistance in excess of \$250,000 in the previous federal fiscal year.

³³ Information on WisDOT's EEO efforts are available on the WisDOT website at: <http://wisconsindot.gov/Pages/doing-bus/civil-rights/labornwage/default.aspx>

Because WisDOT does not operate a mass transit system or meet the threshold of employing 100 or more transit-related employees, it is not required to submit an EEO program plan to FTA.

WisDOT must ensure that its subrecipients adhere to EEO requirements. Each agreement between WisDOT and subrecipients for the provision of FTA funding contains language that requires the subrecipient to comply with FTA regulations related to EEO. In addition, private providers under contract with subrecipients are required to comply with these regulations.

During the application process and on-site visits as part of the CSR program, WisDOT reviews whether a subrecipient exceeds the threshold of 100 or more transit-related employees and the dollar threshold of funding requests. If, upon application review, the number of transit-related staff reached 100 or more and the dollar threshold for capital, operating or planning assistance was met, WisDOT would require the subrecipient to submit a formal EEO program to WisDOT for review and approval.

R. ASSET MANAGEMENT

WisDOT is responsible for monitoring the use of FTA-funded vehicles, real property, such as land, facilities and equipment³⁴. Assets that are not maintained in a state of good repair present potential risks, including safety, service unavailability and high maintenance and repair costs. As such, WisDOT oversees all assets purchased and leased under WisDOT grant agreements. Asset oversight is provided through an asset inventory, maintenance reviews and inspections.

Any programs or activities that receive federal transit funding must comply with asset management requirements. Any agency receiving federal dollars either directly from FTA, indirectly through WisDOT or both, must:

- Maintain a complete and accurate inventory list
- Track all federal assets from purchase to disposal
- Develop and implement a written maintenance plan

WisDOT ensures that all transit assets used by subrecipients purchased with federal funds are for used for the program or project for which it was acquired. Examples of efforts used by WisDOT to maintain continuing control of subrecipient FTA-funded assets include:

- Equipment inventories
- Lease restrictions
- Insurance requirements
- Operation and ridership reports
- Retention of liens on titles

³⁴ WisDOT's website provides information and resources to assist subrecipients with adhering to asset management requirements: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/compliance/asset.aspx>

- Disposition requirements
- Site visits

ASSET INVENTORY

WisDOT requires subrecipients to maintain records in BlackCat for vehicles, facilities, and other substantial assets purchased with FTA funds.

DISPOSITION OF ASSETS

WisDOT is responsible for approving the disposal of subrecipient federally funded transit assets. WisDOT's website provides guidance and instructions to subrecipient on asset and vehicle disposal requirements.

MAINTENANCE

Subrecipients are required to develop maintenance plans covering their federally-funded vehicles and facilities, and to provide WisDOT with a copy of their plan(s). Subrecipients must maintain all federally-funded property in good operating order and maintain ADA accessibility features. WisDOT's website provides guidance and resources for the development of maintenance plans. Subrecipients are monitored for adherence to the plans through WisDOT's continuing control methods, as noted above.

TRANSIT ASSET MANAGEMENT (TAM) PLAN

Transit asset management (TAM) is the strategic and systematic practice of procuring, operating, inspecting, maintaining, rehabilitating, and replacing transit capital assets to manage their performance, risks, and costs over their life cycles, for the purpose of providing safe, cost-effective, and reliable public transportation.

In accordance with 49 CFR Parts 625 and 630, WisDOT is the TAM plan sponsor for all 5311 and 5310 subrecipients. Accordingly, 5311 and 5310 subrecipients must opt-in to the WisDOT group TAM plan, or may opt-in to another agency's group TAM plan if they choose. The TAM plan includes an inventory of capital assets, a condition assessment of inventoried assets, a decision support tool and a prioritization of investments.

WisDOT works with its subrecipients to adhere to FTA submission plan and reporting requirements. All subrecipients included in the WisDOT TAM plan are required to submit an updated asset inventory of to WisDOT on an annual basis as well as a (4) four-year capital replacement schedule. WisDOT will submit updated TAM targets into the National Transit Database (NTD) on an annual basis, and will notify subrecipients of updates to the federal TAM requirements as listed on FTA's website³⁵.

³⁵ <https://www.transit.dot.gov/TAM>

S. NATIONAL TRANSIT DATABASE (NTD) REPORTING

The NTD is FTA's national database for statistics on the transit industry³⁶. Recipients and subrecipients of Section 5311 grants are required by 49 U.S.C. § 5335 to submit data to the NTD as a condition of the award.

Per MAP-21, FTA combined requirements from both the NTD statute (49 U.S.C. § 5335) and the TAM statute (49 U.S.C. § 5326) in a single set of NTD reporting requirements.

To meet the FTA reporting requirements, subrecipients are required to submit quarterly reports to BlackCat. The quarterly reports include information on revenues, expenses, service hours, service miles and ridership and captures most of the elements required for the NTD report. Additional data (e.g. accident, vehicle and facility data) is also collected during the public transit application period or through asset inventories in BlackCat.

Per 49 CFR Part 630, WisDOT reports the annual data on behalf of its subrecipients to the NTD website. The annual report is due to FTA on October 31st and is based on Wisconsin's state fiscal year, which runs from July 1 through June 30. WisDOT will inform its subrecipients of changes to the NTD requirements as posted to the NTD website.

T. CHARTER RULE

Under 49 CFR Part 604, subrecipients are prohibited from using federally-funded equipment and facilities to provide charter service if a registered private charter operator expresses interest in providing the services.

Subrecipients are allowed to operate community based charter services excepted under the regulation. WisDOT assists subrecipients with FTA charter service requirements and reporting, as requested.

The annual federal certifications and assurances, signed by all subrecipients, contains the charter service certification. WisDOT transit staff verify compliance with charter regulations while reviewing annual grant applications and during on-site visits³⁷.

SCHOOL TRANSPORTATION

Per 49 CFR Part 605 - "School Bus Operations", and FTA's "Final Policy Statement on FTA's School Bus Operations Regulations" (73 FR 53384, September 16, 2008), subrecipients are

³⁶ FTA - National transit database requirements are available online at: <https://www.transit.dot.gov/ntd>

³⁷ FTA charter service requirements are available online at: <https://www.transit.dot.gov/regulations-and-guidance/access/charter-bus-service/charter-bus-service-regulations-0>

Additional charter service information is available on WisDOT's website at: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/docs.aspx>

prohibited from providing school bus service in competition with private school bus operators unless the service qualifies and is approved by FTA under an allowable exemption. Federally funded equipment or facilities cannot be used to provide exclusive school bus service.

Subrecipients should contact WisDOT for guidance on federal requirements related to school bus operations. Subrecipients interested in providing school bus operations must receive an exemption approved by FTA and only use locally-funded equipment and facilities. WisDOT oversees compliance with the prohibition of school tripper service during review of subrecipient application materials, website and/or promotional materials and the CSR program.

U. TRANSPORTATION SAFETY

On August 11, 2016, FTA published the Public Transportation Safety Program Final Rule (Safety Program Rule)³⁸. The rule establishes substantive and procedural rules for the administration of the Public Transportation Safety Program (“national safety program”) authorized at 49 U.S.C. § 5329, including FTA’s authority to monitor and oversee transit safety and enforce transit safety laws. The rule also anchors FTA’s foundational safety policy in a safety management systems (SMS) framework, which promotes a proactive, risk-based approach to the development and implementation of safety programs (including the national safety program).

WisDOT currently has two different programs affected by the Safety Program Rule and the national safety program: Bus Safety and Rail Transit Safety (referred to federally as “state safety oversight”, or SSO).

BUS SAFETY

MAP-21 requires that all recipients of FTA funding develop a Public Transit Agency Safety Plan (PTASP) and certify that the plan meets FTA requirements. FTA published its PTASP final rule on July 19, 2018; however, the rule does not become effective for one year (July 20, 2019), and an implemented PTASP will not be required until one year after the effective date (July 20, 2020). In the interim, WisDOT will be working with both FTA and affected bus transit agencies in the state to both understand and implement PTASP requirements as they are enumerated by FTA – until July 20, 2020, bus transit agency safety plans remain voluntary³⁹. Because the Safety Program Rule does not require immediate action from recipients, WisDOT provides technical assistance on bus transit PTASP and SMS-related issues on an as-needed basis.

³⁸ FTA’s Public Transportation Safety Program Final Rule is located at:
<https://www.federalregister.gov/documents/2016/08/11/2016-18920/public-transportation-safety-program>

³⁹ Information and updates to Bus Safety requirements are available on WisDOT’s website at:
<http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/compliance/safety-bus.aspx>

STATE SAFETY OVERSIGHT (SSO) PROGRAM

Unlike bus transit, rail transit systems have mandatory requirements under MAP-21 and FTA regulation⁴⁰: each state with at least one rail fixed guideway public transportation system (“rail transit system”) must have a designated state safety oversight (SSO) agency. Per Wis. Stat. 85.066(2)⁴¹ and Wis. Admin. Code Trans 10⁴², WisDOT fulfills this federal requirement and oversees safety programs⁴³ at all qualifying rail transit systems in the state – currently there are two: the Kenosha Streetcar, which has been in operation since 2000 and is operated by Kenosha Area Transit (KAT); and the Milwaukee Streetcar System (MSS), set to begin service in late 2018.

V. OTHER PROVISIONS

EMPLOYEE PROTECTION PROVISIONS – SEC. 5333(B)

When projects funded under Section 5311 are used to acquire, improve, or operate a transit system, federal law requires arrangements to protect the rights of affected transit employees contained in 49 USC 53333(b) (formerly Section 13(c) of the Federal Transit Act).

Section 5311 and JARC

Annually, subrecipients agree to be bound by the terms and conditions of the Special Section 5333(b) warranty. The document is signed and submitted with the annual subrecipient grant agreement.

Section 5310

49 USC Sec. 5333(b) does not apply to 5310 projects.

DRUG-FREE WORKPLACE ACT (DFWA) AND DRUG AND ALCOHOL TESTING

Drug-Free Workplace Act (DFWA)

The Drug-Free Workplace Act (DFWA) of 1998⁴⁴, as amended, requires WisDOT to maintain a drug-free workplace for all employees and have an anti-drug policy and awareness program. Current WisDOT work rules prohibit the illegal use and/or possession of any alcoholic beverages and non-prescribed narcotics in the workplace. WisDOT’s Employee Assistance Program (EAP) assists employees and their immediate families with drug and alcohol related issues.

⁴⁰ 49 CFR Part 674 is FTA’s new SSO program rule: <https://www.ecfr.gov/cgi-bin/text-idx?SID=341b09e6ffd54fed78cf7d1832ed310b&mc=true&node=pt49.7.674&rgn=div5>

⁴¹ <http://docs.legis.wisconsin.gov/statutes/statutes/85/066>

⁴² https://docs.legis.wisconsin.gov/code/admin_code/trans/10

⁴³ Information on WisDOT’s SSO program is located at: <http://wisconsin-dot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/compliance/safety-rail.aspx>

⁴⁴ Drug-Free Workplace Act (DFWA) is located at 41 U.S.C. § 8102.

Drug and Alcohol Testing

Subrecipients that receive Section 5311 funds are required to adhere to USDOT and FTA drug abuse and alcohol testing requirements for its safety-sensitive employees. Subrecipient efforts must comply with both 49 CFR Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations (as amended), and 49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs (as amended).

Specifically, those requirements include:

- Developing and implementing a compliant drug and alcohol policy
- Participating in a drug and alcohol testing program
- Providing training to safety sensitive employees and supervisors
- Ensuring employee forms, records and files are properly used, maintained and secured and
- Submitting annual drug and alcohol reports

Subrecipients that receive Section 5310 funding also must comply with Federal Motor Carrier Safety Administration (FMCSA) rules for employees who hold a commercial driver's license.

WisDOT has established a drug and alcohol testing consortium that is open to subrecipients and their contractors, subcontractors and lessees. The consortium is administered by a third-party administrator (TPA) selected by WisDOT through a competitive procurement process. The TPA is responsible for providing all drug and alcohol testing services for the participating subrecipients in conformance with 49 CFR Part 655, which includes specimen collection and drug testing, breath alcohol testing, random database selection, recordkeeping, reporting and certification.

WisDOT and the TPA provide technical assistance and oversight to Section 5311 subrecipients and their transit providers/contractors in meeting the drug and alcohol testing requirements. Oversight mechanisms include document and desk reviews, reporting and participation in the WisDOT CSR program.

WisDOT oversight of the TPA is ensured through ongoing correspondence on topics such as drug and alcohol regulation changes, the resolution of any areas of concern with subrecipients and other issues related to compliance on a monthly basis and/or more frequently, as needed. Additionally, the TPA submits an annual compliance report to certify compliance based on elements within USDOT and FTA drug and alcohol regulations.

ENVIRONMENTAL PROTECTION

Most projects and activities funded through 5310 and 5311 do not involve significant environmental impacts. Typically, projects are considered categorical exclusions because they are types of projects that have been "categorically" (i.e., previously) excluded in regulations from the requirements to conduct environmental reviews prepare environmental documentation.

FTA adheres to the two FHWA categorical exclusions groups outlined in 23 CFR 771.117⁴⁵:

- Categorically excluded under 23 CFR 771.117(c) – Activities and projects which have very limited or no environmental effects at all (e.g., planning studies, preliminary design work, program administration, grants for training, operating assistance and the purchase of transit vehicles).
- Categorically excluded under 23 CFR 771.117(d) – Activities and projects involving construction and/or have a greater potential for off-site environmental impacts (e.g., construction of transit facilities, parking, etc.). These projects may be designated “categorically excluded” after review of documentation. In order to receive a documented categorical exclusion, a subrecipient must complete a checklist, including an environmental justice analysis. WisDOT will first review the completed checklist before sending it to FTA, who as final authority to grant the categorical exclusion. For a copy of the checklist and more detail on the review process, see the WisDOT transit procedures and oversight manual.

Even if a project is determined to be a categorical exclusion, there may be other relevant state and federal environmental protection requirements, which must be met for the project depending on the type and location of the project.

For projects with environmental impacts that are determined not to be categorically excluded, FTA requires the preparation of an environmental assessment for public comment and FTA review. In the unlikely event that significant environmental impacts are identified with a project, an environmental impact statement is required.

⁴⁵ 23 CFR 771.117 FHWA categorical exclusions: <https://www.ecfr.gov/cgi-bin/text-idx?SID=95616c296ff92f6de499b6ca6c3f58aa&mc=true&node=pt23.1.771&rgn=div5#se23.1.771.1117>