

Chapter Trans 4

URBAN MASS TRANSIT OPERATING ASSISTANCE PROGRAM

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Trans 4.01 Purpose and scope. The purposes of this chapter are to establish the department of transportation’s administrative interpretation of s. 85.20, Stats., and to prescribe administrative policies and procedures for implementing the urban mass transit operating assistance program.

History: Cr. Register, November, 1978, No. 275, eff. 12–1–78; am. Register, May, 1982, No. 317, eff. 6–1–82.

Trans 4.02 Definitions. In this chapter:

(1) “Capital equipment” means non–expendable personal property for use in the provision of public transit service having all of the following:

- (a) An anticipated useful life of one year or more.
- (b) An acquisition cost of \$5,000 or more per unit.

(1d) “Department” means the Wisconsin department of transportation.

(1m) “Eligible applicant” means a local public body in an urban area which is served by an urban mass transit system incurring an operating deficit.

(1o) “Eligible project cost” means an expense that an eligible applicant incurs in the operation of an urban mass transit system for which it is eligible to receive operating assistance authorized under s. 85.20, Stats.

(1p) “Job access and reverse commute project” means a transportation project to finance planning, capital, or operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and low–income individuals to and from jobs and employment–related activities, including transportation projects that facilitate the provision of public transportation services from rural and urbanized areas to suburban employment locations.

(1t) “Joint–use facility” means a facility that is shared by a mass transit system and at least one other business.

(2) “Local public body” means one of the following:

(a) A county or a municipality, as defined in s. 59.001 (3), Stats., or an agency thereof;

(b)–A transit or transportation commission or authority, or a public corporation established by law or by interstate compact to provide mass transportation services and facilities;

(c) Two or more of any such bodies acting jointly under s. 66.0301, Stats.

(2m) “Low–income individual” means an individual whose family income is at or below 150 percent of the poverty line, as that term is defined in Section 673 (2) of the Community Services Block Grant Act, 42 USC 9902 (2), including any revision required by that section.

(3) “Mass transit system” has the meaning given in s. 85.20 (1) (e), Stats., and may include specialized transportation subsystems for seniors and individuals with disabilities, but does not include transportation services exclusively for a subgroup of the general public.

(3g) “Operating deficit” means the amount by which the total operating expenses incurred in the operation of a mass transit system exceeds the amount of operating revenues derived therefrom.

(3r) “Operating revenues” means income that accrues to a mass transit system by virtue of its operations, excluding any income derived from the sale of charter service or the hauling of freight.

(4) “Private provider” means a privately owned entity that provides public transit service.

(4g) “Project” means operation of an urban mass transit system, or subsystem thereof, during a project year.

(4r) “Project year” means a calendar year in which an eligible applicant executes a public transit project receiving funding under s. 85.20, Stats.

(5) “Public provider” means any provider of mass transit service not defined as a private provider.

(5m) “Revenue hours” means the annual number of hours for which a mass transit system’s revenue passenger vehicles offer advertised public transit service, plus the annual sum of any additional hours during which these vehicles transport revenue paying passengers and, for shared–ride taxicab services, during which they travel to a base destination at the end of daily operation or undergo a pre–trip inspection.

(6) “Revenue passenger vehicle” means a vehicle used to transport revenue paying passengers on a mass transit system.

(6m) “Secretary” means the secretary of the Wisconsin department of transportation.

(7) “Shared–ride taxicab” means a taxicab legally able to simultaneously transport passengers having different origins, different destinations, or both.

(8) “Subsystem” means that part of a transit system which provides special services to elderly or disabled persons.

(8m) “Unlinked trip” means a trip beginning when a passenger boards the vehicle and ending when the passenger alights the vehicle, even if the passenger transfers to another vehicle to reach a destination.

(9) “Urban area” means any area that includes a city or village having a population of 2,500 or more or an area that includes 2 American Indian reservations and that is served by a mass transit system operated by a transit commission. The department shall determine the population of a city or village within an urban area using the most recent estimates prepared by the department of administration.

(10) “Urban mass transit system” means a mass transit system providing at least two–thirds of its revenue miles of service within the boundaries of an urban area.

(10g) “Urbanized area” means an area of the state so defined by the U.S. bureau of the census.

(10r) “Useful life” means a minimum time period, specified by the department, during which an asset is expected to remain in suitable condition for continued use in its intended capacity.

(11) “User–side subsidy” means financial assistance provided directly to a user of a mass transit system in the form of a voucher provided to the user by the local public body for use in payment of a fare, or a portion of a fare, for a trip taken on an urban transit system.

(12) “Welfare recipient” means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act, 42 USC 601 et seq., at any time during the previous three-year period.

History: Cr. Register, November, 1978, No. 275, eff. 12–1–78; am. (1), (3) and (6), Register, May, 1982, No. 317, eff. 6–1–82; renum. (3) to (6) to be (10), (3), (9) and (8) and am. (3), cr. (4) to (7) and (11), Register, October, 1986, No. 370, eff. 11–1–86; am. (9), Register, August, 1989, No. 404, eff. 9–1–89; r. and recr. (9), Register, December, 1989, No. 408, eff. 1–1–90; cr. (intro.), am. (1), (3) and (8), Register, April, 1993, No. 448, eff. 5–1–93; renum. (1) to be (1m) and cr. (1), (1r), (5m), (6m) and (8m), Register, November, 2000, No. 539, eff. 12–1–00; correction in (2) (c) made under s. 13.92 (4) (b) 7., Stats., Register March 2012 No. 675; **CR 18–065: renum. (1) to (1d), cr. (1), (1h), (1p), renum. (1r) to (1t) and am., am. (2) (intro.), (a), (b), cr. (2m), r. and recr. (3), cr. (3g), (3r), am. (4), cr. (4g), (4r), am. (5m), (7), (8m), cr. (10g), (10r), am. (11), cr. (12) Register October 2020 No. 778, eff. 11–1–20; renum. (1h) to (1o) under s. 13.92 (4) (b) 1., Stats., Register October 2020 No. 778; correction in (2) (a) made under s. 35.17, Stats., Register October 2020 No. 778.**

Trans 4.03 Appropriateness of urban areas. All urban areas shall be deemed appropriate for an urban mass transit system for purposes of receiving state aid, except that no city or village may receive state aid for a municipal bus transit system unless the system is approved by action of its governing body and by referendum vote of its electorate pursuant to s. 66.0803 (2) (a), Stats.

History: Cr. Register, November, 1978, No. 275, eff. 12–1–78; r. and recr. Register, May, 1982, No. 317, eff. 6–1–82; emerg. am. (2), eff. 11–18–83; am. (2), Register, April, 1984, No. 340, eff. 5–1–84; r. and recr. Register, December, 1989, No. 408, eff. 1–1–90; correction made under s. 13.92 (4) (b) 7., Stats., Register March 2012 No. 675; **CR 18–065: am. Register October 2020 No. 778, eff. 11–1–20.**

Trans 4.04 Project costs. (1) Eligible project costs are limited to the operating expenses of an urban mass transit system, including labor, fringe benefits, materials and supplies, utilities, insurance, purchased transportation services, license fees and lease expenses. For publicly owned mass transit systems, the only wages and fringe benefits that shall be considered eligible project costs are those of employees whose activities are related to the day-to-day operation of the system. For employees who do not work full time on transit system operations, only expenses related to that portion of their time spent on transit shall be considered eligible project costs. For urban mass transit services provided by a private provider operating under contract with an eligible applicant, eligible project costs may include profit, return on investment, interest on short term debt obligation, and depreciation of facilities and capital equipment used directly for the provision of urban mass transit services, provided that the facilities and equipment were acquired without benefit of public financial assistance. If a facility is a joint-use facility, depreciation of only that portion of the facility used in the provision of urban mass transit services is an eligible project cost. For shared-ride taxicab services provided by private providers operating under contract with an eligible applicant, eligible project costs may include administrative fees that the eligible applicant incurs in the course of satisfying state and federal requirements.

(2) Eligible project costs may include the costs of user-side subsidies provided to individuals with disabilities. User contributions to the user-side subsidy service are considered eligible project costs in accordance with s. 85.20 (3m) (b), Stats.

(3) If an eligible applicant contracts for mass transit service with a private provider, it shall execute a formal written contract with the provider. Only costs incurred under a properly executed written contract shall be considered eligible project costs.

(4) (a) If an eligible applicant contracts with a private provider to operate an urban mass transit system on its behalf, it shall do so using the competitive proposal process set forth in par. (b), and eligible project costs are limited to those costs associated with the proposal accepted by the eligible applicant.

(b) Eligible applicants shall use the following competitive bid process:

1. An eligible applicant shall prepare a “request for proposal” document. The document shall request expressions of interest from providers, and describe essential provider qualifications and

criteria for evaluating those qualifications. The eligible applicant shall post the document, along with any ancillary documents, on the department of administration’s statewide goods and services electronic purchasing system website. The eligible applicant shall also cause an appropriate notice of the request for proposal to be published in a local newspaper of general circulation.

2. If only one qualified provider expresses interest in providing the urban mass transit service, the eligible applicant may negotiate a contract with that provider. The negotiated contract shall be subject to the department’s approval.

3. If 2 or more qualified providers express interest in providing the urban mass transit service, the eligible applicant shall rank each provider on the criteria set forth in the request for proposal.

4. When a publicly owned mass transit system responds to a request for proposal issued by a local public body under subd. 3., the cost proposal shall include an analysis of fully allocated costs if so required by the request for proposal. The analysis shall include all of the system’s costs measured in accordance with generally accepted accounting principles, regardless of whether these costs are otherwise paid for through other public financial assistance, including operating subsidies and capital grants. When the public body which owns the mass transit system has prepared a cost allocation plan in accordance with 2 CFR 200, costs of the mass transit system shall be allocated in accordance with that plan. When the mass transit system has not prepared a cost allocation plan in accordance with 2 CFR 200, costs which are allocable to the mass transit system shall be determined using the principles outlined in 2 CFR 200. Expenses of the mass transit system shall be allocated to segments of service considered using the following categories:

a. Costs that depend on the number of vehicle hours operated, including particular operators’ salaries and fringe benefits.

b. Costs that depend on the number of vehicle miles traveled, including fuel costs, maintenance costs and maintenance personnel salaries and fringe benefits.

c. Costs that depend on the maximum number of vehicles that are in service during the day, including administrative and capital costs.

6. The proposed costs in an awarded bid shall be reduced by an allowance for operating and capital costs subsidized through other state and federal grants.

7. An eligible applicant shall establish an appropriate procedure for resolving bid proposal complaints and conflicts, and shall include the procedure in its request for proposal.

(c) If a local public body contracts for urban mass transit service with a private provider on the basis of negotiated procurement, eligible project costs may include depreciation of facilities and capital equipment used directly for the provision of urban mass transit services, provided that the facilities and equipment were acquired without benefit of public financial assistance. If a facility is a joint-use facility, depreciation only of that portion of the facility used in the provision of urban mass transit services is an eligible project cost.

(5) The following expenses are not eligible project costs:

(a) Depreciation and amortization, except as authorized by sub. (1).

(aa) Job access and reverse commute project expenses, except in cases where the recipient’s grant agreement with the department explicitly authorizes use of funds for such project(s).

(b) Taxes paid which are subject to rebate.

(c) Interest expense, except as authorized under sub. (1).

(d) Profit, except as authorized by sub. (1).

(e) Lease-purchase payments.

(f) Lease payments to a related party which are made under less than an arm’s length agreement. Only actual eligible project costs of owning the property, including depreciation and taxes, shall be allowed, as authorized under sub. (1).

(g) Lease payments for revenue passenger vehicles unless, and only for the term, pre-approved by the department.

(h) Entertainment costs.

(i) Fines and penalties.

(j) Bad debts.

(k) Charitable deductions.

(L) User-side subsidies, except as authorized by sub. (2).

(m) Payments to members of advisory committees, transit commissions or transit boards.

(n) Federal, state and local income taxes.

(o) Charter-related expenses. Such expenses shall be considered to be equal to the revenue received directly from the provision of charter service, except when charter revenues exceed 10% of the total annual operating revenues of the mass transit system. When charter revenues exceed 10% of the total annual operating revenues of the mass transit system, charter-related expenses shall be determined in accordance with a cost allocation plan approved by the department.

(p) Expenses related to contractual agreements for special planning studies.

(q) Expenses for general public administration functions or activities of regional or local entities that are not related to the provision of mass transit service.

(r) Expenses for contingencies or capital acquisitions, including contributions to a capital reserve account or fund. The cost of materials and supplies utilized in facility or vehicle repairs, regardless of cost, shall be considered eligible project costs so long as such repairs involve replacement of existing items.

(s) For mass transit systems operated under contract by a private provider, the wages and fringe benefits of any public employees, except those employees involved in administration of the contract or in monitoring the performance of the provider.

(t) Fees imposed upon a contracted service provider by the recipient public body, such as taxicab license fees.

(u) Return on investment, except as authorized by sub. (1). Return on investment shall be a fixed amount and may not exceed an amount calculated by applying the interest rate the secretary of the treasury specifies under 50 USC App. 1215 (b) (2) as applicable to the period ending on December 31 of the year prior to the project year to the net book value of the private provider's equipment and facilities used in providing the contracted for transportation service.

(v) Expenses that are directly offset by revenues that may include, but are not limited to, expenses related to hauling freight or package delivery, cash discounts or refunds, tax rebates including fuel tax rebates, insurance proceeds and resale proceeds. Such expenses shall be considered to be equal to the revenue derived directly from their incurrence.

(w) Franchise fees paid by the recipient public body to a private provider.

(x) Expenses for the direct operation of private or public van pools, except administrative and marketing expenses associated with the public van pool program.

(y) Expenses that are paid for with federal transit administration capital funds authorized under 49 CFR 53.

(z) For mass transit systems providing services outside of their jurisdictional boundaries, expenses related to services which duplicate those provided by another mass transit system in terms of geographic area served, hours operated, frequency of service and passenger boarding and alighting locations. Decisions on duplication of service shall be made by the department, after consultation with the affected public bodies.

History: Cr. Register, November, 1978, No. 275, eff. 12–1–78; r. and recr. (1), am. (2), (3) and (4), Register, May, 1982, No. 317, eff. 6–1–82; emerg. r. and recr. eff. 11–18–83; r. and recr. Register, April, 1984, No. 340, eff. 5–1–84; am. (1), renum. (2) to be (5) and am. (2) (a), (d) and (l), cr. (2) to (4), Register, October, 1986, No. 370, eff. 11–1–86; am. (5) (f) and (o), renum. (4), (5) (q), (r), (s) and (t) to be (4) (a), (5) (p), (q), (r) and (s) and am. (4) (a), cr. (4) (b) and (c) and (5) (t), (u), (v) and (w) and

r. (5) (p), Register, August, 1989, No. 404, eff. 9–1–89; am. (2), (4) (b) 1. and (5) (r), cr. (5) (x), Register, April, 1993, No. 448, eff. 5–1–93; am. (1), (5) (a), (c), (d), (f), (L), (s) and (l), r. (3), renum. (4) (b) 4. and 5. to be (4) (b) 5. and 7. and cr. (4) (b) 4., 6. and (5) (y) and (z), Register, November, 2000, No. 539, eff. 12–1–00; **CR 18–065: am. (1), (2), cr. (3), r. and recr. (4) (a), am. (4) (b) 1. to 3., 4. (intro.), a., r. (4) (b) 5., am. (4) (b) 6., 7., (c), cr. (5) (aa), am. (5) (f), (g), (o), (q) to (u), (w), (x), (z) Register October 2020 No. 778, eff. 11–1–20.**

Trans 4.05 State share of eligible project costs.

(1) The department may audit all public and private providers of urban mass transit services receiving state aids under the urban mass transit operating assistance program. The audits shall be the basis for computing the maximum share of state and federal aids each eligible applicant can apply against operating deficits for each state aid contract period. If a private provider is a subsidiary corporation, the department may audit both the subsidiary and the parent corporation. The department shall conduct audits as follows:

(a) For all urban mass transit systems participating in the state aid program, except those in which a local public body contracts for services with a private provider on the basis of competitive bids, the department shall audit the actual operating revenues and operating expenses for each state aid contract period. Audits shall be conducted in accordance with generally accepted governmental auditing standards.

(b) For mass transit systems in which a local public body contracts for services with a private provider on the basis of competitive bids, the department shall conduct contract compliance audits. Additionally, the department shall audit any fees the local public body charges to the department for administration of the private provider's service.

(2) The state's share of eligible project costs shall be in accordance with s. 85.20 (4m), Stats.

History: Cr. Register, November, 1978, No. 275, eff. 12–1–78; r. and recr. Register, May, 1982, No. 317, eff. 6–1–82; emerg. r. and recr. eff. 11–18–83; r. and recr. Register, April, 1984, No. 340, eff. 5–1–84; am. (1) (a) and (4), Register, October, 1986, No. 370, eff. 11–1–86; renum. (1), (2), (3), and (4) to be (2), (3), (4) and (5), cr. (1), Register, August, 1989, No. 404, eff. 9–1–89; am. (2) (intro.) and (a), cr. (2) (c), Register, August, 1990, No. 416, eff. 9–1–90; am. (2) (a), Register, April, 1993, No. 448, eff. 5–1–93; am. (1) (b) and r. and recr. (2), Register, November, 2000, No. 539, eff. 12–1–00; **CR 18–065: am. (1), r. (3) to (5) Register October 2020 No. 778, eff. 11–1–20.**

Trans 4.06 Distribution of state aids. (1) The department shall distribute the state appropriations for this program among eligible applicants in accordance with the procedures set forth in s. 85.20 (4m), Stats., and also in accordance with provisions of the annual state grant agreements executed between each applicant and the department.

(2) Except as provided in sub. (3), each eligible applicant shall provide a local contribution, exclusive of user fees, toward operating expenses in an amount equal to at least 20% of all state allocations to that applicant under this chapter. No federal or state categorical financial aids or passenger revenues are allowed as part of the local contribution. No part of the local contribution may be paid by a private provider contracting with the applicant public body. The local contribution shall be determined by audit and calculated by subtracting passenger revenues, federal aids and state aids from eligible project costs.

(3) Subsection (2) does not apply to an eligible applicant that is served exclusively by a shared-ride taxicab system.

(4) State aids shall be paid to a recipient on a recurring basis, and no more than 4 times annually. If the department's audit establishes that the state aid payment to a recipient has exceeded any limitation on the state's share of eligible project costs under s. 85.20, Stats., then the recipient shall refund to the department an amount sufficient to reduce the state aids to an amount that is in conformity with s. 85.20, Stats.

History: Cr. Register, November, 1978, No. 275, eff. 12–1–78; r. and recr. Register, May, 1982, No. 317, eff. 6–1–82; emerg. am. (2), (3) and (4), eff. 11–18–83; am. (2), (3) and (4), Register, April, 1984, No. 340, eff. 5–1–84; am. (2) to (4), Register, October, 1986, No. 370, eff. 11–1–86; am. (2) and (3), renum. (4) to be (6) and am., cr. (4) and (5), Register, August, 1990, No. 416, eff. 9–1–90; am. (2) and (3), Register, April, 1993, No. 448, eff. 5–1–93; am. (4), Register, March, 1996, No. 483, eff. 4–1–96; am. (1), r. (2) and (3) and renum. and am. (4) to (6) to be (2) to (4), Register,

November, 2000, No. 539, eff. 12-1-00; **CR 18-065: am. (1), (2), (4) Register October 2020 No. 778, eff. 11-1-20; correction in (4) made under s. 35.17, Stats., Register October 2020 No. 778.**

Trans 4.07 Application for state aids. (1) Applications shall be made in a form and manner prescribed by the department. If multiple local public bodies in a given urban area contribute assistance to a mass transit system, one eligible applicant shall submit a single application on behalf of all participating local governments. The applicant public body, as well as all other participating local governments, shall assure that the required local shares of eligible project costs will be available.

(1m) Each state aid application shall include a transit management plan which describes the mass transit system's operations for the coming year, including the amount of service to be provided, the fares to be charged, any steps to be taken to improve system effectiveness and efficiency, and the procedures to be used for counting revenue passenger trips.

(2) Applications for aids shall be submitted to the department no later than December 15 of the year immediately preceding the proposed project year. No application received after January 1 of the project year shall be funded unless the secretary of transportation determines that a later date is appropriate in order to properly respond to an emergency situation.

(3) Eligible applicants serving an urban area with a population exceeding 49,999 shall make available their application to the appropriate metropolitan planning organization.

(4) Mass transit services receiving financial assistance may be operated for less than a calendar year.

(5) Costs for services not included in the application for state aids will not be eligible for funding until the following project year unless the department so approves them in writing prior to the time at which costs start accruing.

(6) An eligible applicant intending to submit an application to support a new mass transit system shall notify the department of its intention no later than January 15 of the preceding year to be eligible for funding.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; am. (2), cr. (5) and (6), Register, July, 1981, No. 307, eff. 8-1-81; am. (1), r. (3), renum. (4) to (6) to be (3) to (5), Register, May, 1982, No. 317, eff. 6-1-82; am. (2), Register, October, 1986, No. 370, eff. 11-1-86; r. and recr. (5) and cr. (6), Register, November, 2000, No. 539, eff. 12-1-00; **CR 18-065: am. (1), cr. (1m), am. (2) to (6) Register October 2020 No. 778, eff. 11-1-20.**

Trans 4.08 State aid grant agreements. (1) For each calendar year, the department may execute an annual aid grant agreement with each eligible applicant.

(2) State aid grant agreements may be terminated by either the department or the applicant under the following conditions:

(a) By the department, if the department determines that the purpose of the aid program as expressed in s. 85.20, Stats., is not being fulfilled, or if the recipient fails to comply with the terms and conditions of the state aid grant agreement.

(b) By the recipient, if the recipient makes a formal application to the department to do so.

(3) A state aid grant agreement may be terminated as provided in sub. (2) by giving written notice of intent to terminate, sent by certified mail, at least 30 calendar days prior to the proposed termination date.

(4) State aid grant agreements shall require that recipients do the following:

(a) Pay the operating deficit of the mass transit system;

(b) Provide reduced fare programs for seniors and individuals with disabilities during nonpeak hours, except if the mass transit system is a shared-ride taxicab system. Reduced fares may not exceed one-half of the adult cash fare;

(c) Establish and maintain accounting procedures and documents as prescribed or approved by the department;

(d) Assure that the mass transit system will count "revenue passenger trips" in accordance with ch. Trans 3.

(e) Assure that the mass transit system will file any reports required by the department at a time and in a manner prescribed by the department. If any report is not filed as required, the department may withhold payments due a grant recipient until the report is filed in the manner and form prescribed;

(f) Assure that, if other local public bodies contribute assistance to the operation of the mass transit system, the state aids received are allocated among the contributors in accordance with any cost sharing agreement that is filed with the department. If no agreement is filed, the aids shall be distributed among the contributors in proportion to their contributions; and

(g) Assure that, if urban mass transit service is provided under a local public body contract with a private provider, the local public body makes payments to the private provider only on the basis of actual billed expenses.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; r. and recr. Register, May, 1982, No. 317, eff. 6-1-82; emerg. r. and recr. (5), eff. 11-18-83; r. and recr. (5), Register, April, 1984, No. 340, eff. 5-1-84; am. (4) (b), (e) and (f), cr. (4) (g), Register, August, 1989, No. 404, eff. 9-1-89; am. (4) (b) and (e), Register, April, 1993, No. 448, eff. 5-1-93; am. (4) (b), Register, November, 2000, No. 539, eff. 12-1-00; **CR 18-065: am. (title), (1), (2) (intro.), (a), (3), (4) (intro.), (b), (g), r. (5), (6) Register October 2020 No. 778, eff. 11-1-20.**

Trans 4.09 Planning requirements. The following requirements apply to all eligible applicants receiving assistance under s. 85.20, Stats.:

(1) **TRANSIT DEVELOPMENT PROGRAMS.** The applicant shall prepare and submit annually to the department a 4-year transit development program, in the form and manner prescribed by the department.

(2) **PERFORMANCE GOALS.** The applicant shall establish annual service and performance goals for the coming 4 project years and assess the effectiveness of its operations in relation to those goals. The goals shall be submitted to the department as a part of the application for state aids. At a minimum, systemwide 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.

(3) **TRANSIT MANAGEMENT PLAN.** The applicant shall submit a transit management plan annually that meets the requirements of s. Trans 4.07 (1m). Each mass transit system's policies and activities shall conform at all times to the transit management plan for the current project year. The applicant shall report to the department any proposed deviations from the transit management plan and shall not implement them prior to department concurrence. The department shall determine if a formal amendment to the transit management plan is required in all cases. The department may require the applicant to hold a public hearing on the proposed change prior to approving the proposal.

(4) **COST EFFICIENCY STANDARDS.** (a) The department shall assess the performance of each transit system receiving aid under the program on an annual basis, using the 6 performance indicators defined in sub. (2).

(b) The department will assign each mass transit system to a peer group based on operating characteristic similarities.

(c) The department shall establish standards for each of the 6 performance measures defined in sub. (2) based on arithmetic means, for each peer group. 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 4 of the 6 performance measures shall be deemed in compliance with the cost efficiency standards, and no further action will be taken.

(d) If a transit system does not meet the cost efficiency standards as defined under par. (c), the department shall perform a time-trend analysis, analyzing the 6 performance measures over the most recent 5-year period. Data used will be the data from the preceding calendar year. A system showing improvement in 4 of the 6 indicators shall be deemed in compliance with the cost efficiency standards, and no further action will be taken.

(e) If a transit system does not meet the cost efficiency standards as defined under pars. (c) and (d), an assessment shall be made of the implementation status of recommendations made in the system's most recent management performance audit. A system which has made significant progress in implementing the majority of recommendations targeted at improving efficiency shall be deemed in compliance with the cost efficiency standards, and no further action will be taken.

(f) If a transit system does not meet the cost efficiency standards as defined under pars. (c) to (e), the following actions shall be taken:

1. If management performance audit recommendations have not been implemented, the department shall provide technical assistance to aid in the implementation of the recommendations. If consultant services are necessary, the transit system shall pay

the nonfederal share of the consultant's costs.

2. If a management performance audit has not been conducted within the last 3 years, the department shall schedule an audit as soon as possible.

(g) Systems deemed out of compliance with the cost efficiency standards as defined in pars. (c) to (e) shall be given a 3-year period in which to comply before being assessed a revenue penalty. After 3 years of noncompliance, a 10% revenue penalty shall be imposed, which will limit state aids to 90% of the state aid the system would have been entitled to if it were in compliance with the cost efficiency standards. The penalty shall remain in effect until the system comes into compliance.

History: Cr. Register, May, 1982, No. 317, eff. 6-1-82; renum. to be (intro.) and (1), cr. (2) and (3), Register, August, 1990, No. 416, eff. 9-1-90; am. (2) (intro.), (a) to (c) and (e) and cr. (2) (f), Register, November, 2000, No. 539, eff. 12-1-00; cr. (4), Register, January, 2001, No. 541, eff. 2-1-01; **CR 18-065: am. (intro.), (1), (2) (intro.), r. and recr. (3), renum. (4) (b) (intro.) to (4) (b) and am., r. (4) (b) 1. to 6., am. (4) (c), (d), (f) 1.** Register October 2020 No 778, eff. 11-1-20.

Trans 4.10 Management performance audits. The department shall conduct a management performance audit of all urban mass transit systems participating in the program at least once every 5 years. The department shall determine the scope of services for each audit in cooperation with the management of the mass transit system subject to the audit. This section does not apply to shared-ride taxicab systems.

History: Cr. Register, August, 1990, No. 416, eff. 9-1-90; am. Register, November, 2000, No. 539, eff. 12-1-00.